

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.49927 of 2015

Arising Out of PS.Case No. -114 Year- 2015 Thana -MANIGACHI District- DARBHANGA

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Nathuni Jha @ Sri Nathuni Jha son of Late Bathu Jha, resident of village-
Beharban Belahi, P.S.- Kaluahi, District -Madhubani

.... Petitioner/s

Versus

1. The State of Bihar
2. Arvind Kumar son of Late Mahesh Prasad, District Manager, Bihar State Food Corporation, Khajasarai, P.S.- Laheriasarai, District- Darbhanga

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No.13, Advocate
: Mr. Rohit Kumar, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 27-07-2017

Heard learned counsel for the petitioner and learned counsel
for the State.

2. This application under Section 482 of the Code of Criminal Procedure (for short 'CrPC') has been filed for quashing of the order dated 05.08.2015 passed in Manigachhi P.S. Case No.114 of 2015 whereby the learned Judicial Magistrate, 1st Class, Darbhanga has taken cognizance of the offences punishable under Sections 409 and 420/34 of the Indian Penal Code (for short 'Penal Code') against the petitioner and summoned him to face trial.

3. I have heard learned counsel for the petitioner and learned counsel for the State.



4. The petitioner is one of the named accused in a case relating to criminal breach of trust by public servant punishable under Section 409 of the Penal Code and of cheating committed under Section 420 of the Penal Code. It is alleged that the petitioner was authorized to purchase paddy in the capacity of Incharge of Manigachhi and Taradih purchase centre to purchase 29,873.80 quintals of paddy but only 29,560 quintals paddy were supplied to the millers and remaining paddy worth Rs.4,34,613/- was embezzled by him and others.

5. The allegations made in the FIR were investigated upon by the investigating officer of the case and in course of investigation statement of the witnesses were recorded under Section 161 of the CrPC in which they have supported the allegations made in the FIR. The investigation officer, on completion of investigation, submitted charge-sheet against the petitioner and another. Thereafter, the court of Judicial Magistrate, 1st Class, Darbhanga took cognizance of the offence vide order dated 05.08.2015, which is under challenge in the present application.

6. It is stated by the learned counsel for the petitioner that the petitioner was not involved in any manner in the alleged embezzlement. He has been a victim of malicious prosecution.

7. Having considered the materials available on record and



the arguments advanced by the learned counsel for the petitioner, I see no merit in this application. There is specific allegation of embezzlement of more than four lakhs of public money against the petitioner. The allegations made in the FIR have been found true during investigation. At this stage, the defence taken by the petitioner regarding his false implication and/or malicious prosecution cannot be appreciated or made a ground for quashing of the criminal prosecution. Such defence has to be considered by the trial court at appropriate stage.

8. Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
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