

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 358 of 2017

Sheikh Firoz Mohammad S/o Shri Sheikh Sahadat
Mohammed Aged About 33 Years R/o Vilage Pawani, Police
Station & Tahsil Bilaigarh, Civil & Revenue District
Balodabazar- Bhatapara, Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh Through Police Station- Bilaigarh ,
District Balodabazar- Bhatapara, Chhattisgarh.

---- Respondent

For the Petitioner : Smt. Renu Kochar,
Advocate.
For the Respondent/State : Shri Ashish Shukla, GA.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

12.10.2017

Heard.

1. This petition has been filed under Section 482 of Cr.P.C seeking quashment of criminal proceedings pending against the petitioner before the JMFC, Balodabazar, District- Bhatapara on the ground, that area of the land belonging to the farmers was inflated for the purposes to make excess purchase of the paddy and thus caused losses to the State Ex-chequer to the tune of Rs. 15,691.80 paise, the price of the excess purchase.
2. It is submitted that vide circular dated 19.8.2015 procedure was provided by the State Government for

making entries with respect to the farmers in Paddy Procurement Centre. According to this procedure, Data Entry Operator has no role to play. The information regarding the entries of registered farmers in Gramin Sewa Sahkari Samiti has annexed as Annexure P3 is certified by the patwari of four circles, in these circumstances petitioner had been erroneously held responsible for the entries of inflation of area of the lands made in this process. Even the finalization certificate vide Annexure P2 is statement given by the manager of the Samithi, petitioner is not signatory to any of the document. Hence, for these reasons prosecution of the petition in this case is totally abuse of process of law.

3. Learned counsel for the respondent/ State submits that the case against the petitioner and co-accused has been investigated and charge-sheet has already been filed in abscondance of the petitioner.
4. After receiving complaints, an inquiry was made by the Enquiry Officer appointed by Sub Registrar Cooperative Societies, Balodabazar and a written complaint was forwarded to the PS - Bhilaigarh, naming the accused person responsible for the defalcation and misappropriation of the amount in this case. In this case the petitioner has been arrayed on accused No.5. Thus the whole team of Paddy Procurement Center has been made accused in this case, because of which the petitioner cannot single himself out as not being responsible for the defalcation and the misappropriation committed by falsification of the records and the entries. It is prayed that no case is made out in favour of the petitioner, petition is dismissed.
5. I have heard the learned counsel for the parties and perused all the documents placed on record.

6. It was held by the Hon'ble Supreme Court in case of State of Harayana Versus Bhajanlal and others, 1992 (1) SCC 335 which are as under : -

“In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under [Article 226](#) or the inherent powers under [Section 482](#) of the code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines are rigid formulae and to give an exhaustive list of my myriad kinds of cases wherein such power should be exercised.

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under [Section 156\(1\)](#) of the Code except under an order of a Magistrate within the purview of [Section 155\(2\)](#) of the Code.

(c) where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable

offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under [Section 155\(2\)](#) of the Code.

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(f) where there is an express legal bar en-grafted in any of the provisions [of the Code](#) or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in [the Code](#) or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. Considering the submissions and on perusal of the documents on record, it does not appears that petitioner can be singled out from the rest of the accused person, as he was a part of the team and in the inquiry made by department, he has been held responsible for the false entries made. In these circumstances no extra ordinary case is made out in favor of the petitioner, hence this petition is dismissed and disposed off at the motion stage.

Sd /-

(Rajendra Chandra Singh Samant)
Judge