

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1216 of 2016

- Manoj Kumar Gupta S/o Nawal Kishore Gupta Aged About 36 Years Caste- Gupta, R/o Village Ramgarh, Police Station Janakpur, Tahsil Bharatpur, District Korea, Chhattisgarh. ----
Applicant

Versus

- State of Chhattisgarh through Station House Officer, Police Station, Janakpur, District Korea, Chhattisgarh. --- **Respondent**

For the applicant : Mr. Awadh Tripathi, Advocate.
For the State : Mr. Anil S. Pandey, Govt. Adv.

MCRCA No. 1247 of 2016

- Rajbhan S/o Bodai Aged About 40 Years R/o Village Kannaur (Mannod), Police Station- Janakpur, District- Korea, Chhattisgarh. --- **Applicant**

Versus

- State of Chhattisgarh through the Station House Officer, Police Station Janakpur, District Korea, Chhattisgarh. ---- **Respondent**

For the applicant : Mr. Mahendra Kumar Sajhu, Advocate.
For the State : Mr. Anil S. Pandey, Govt. Adv.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

13.01.2017

1. Apprehending arrest in connection with Crime No. 69 of 2014 registered at Police Station Janakpur, Distt. Korea (C.G) for the offences punishable u/ss 420, 409, 34 of IPC, the applicants have filed these applications u/s 438 of the Code of Criminal Procedure. Since both the applications are relating to the same crime number, they

are being decided by this common order.

2. As per the prosecution case, certain paddy was procured by paddy procurement center at Gadwar Kanjia, Distt. Korea on support price fixed by the Government and in the year 2013-2016, 36,536 quintals of paddy was purchased on support price, out of which 30,626.40 quintals were given to the rice millers for custom milling. Consequently 5909.60 quintals were to remain in stock but when physical verification was made, 58 quintals of paddy was found and as such 5851.60 quintals of paddy was found less. Subsequently it was revealed that the farmers over and above the permitted sale limit of their land holding inflated the land holding and sold the paddy to the Government on support price as according to the policy 36 quintals of paddy was permissible in holding of one hectare. In respect of Manoj Gupta it was stated that he sold the paddy of 724.08 quintals and to equal the procurement it was shown that certain lands were taken for cultivation on lease from Heera Singh & Kamal Narain. The said procurement was made on behalf of his mother Sonmati Gupta who was a registered farmer and consequently applicant Manoj Gupta inflated the area of land and sold more paddy on support price. Like wise the allegation against applicant Rajbhan is that he was holding 3.32 hectares of land and he was entitled to sell 119.32 quintals whereas 566 quintals of paddy was sold which caused loss to the State Exchequer.
3. Learned counsel for the applicants would submit that the State policy itself allows the procurement of paddy so as to take the land on lease for cultivation and grow more

paddy. In case the Rin Pustika is submitted along-with the affidavit and consent of the land holders, the same was permissible and the said documents were deposited at the time of registration. Learned counsel for the applicants would further submit that subsequently during enquiry if denial has been made, it is a subject of trial and the applicants cannot be held to be responsible.

4. Per contra, learned State Counsel opposes the prayer.
5. Perused the case diary documents. The case diary also reveals that an enquiry was conducted by the Food Officer wherein it contains the fact that Rajbhan had stated that some land was taken from Anjoriya but Anjoriya had already expired. So far as it relates to applicant Manoj Kumar Gupta, the enquiry report shows that Heera Singh and Kamal Narain have not given the land on rent to Manoj Gupta.
6. Taking into these facts, I am not inclined to extend the benefit of section 438 Cr.P.C., to the applicants. Accordingly, both the applications are rejected.

Sd/-

**GOUTAM BHADURI
JUDGE**