

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1072 of 2014**

Vijay Kashyap S/o Late Shri Ramavatar Kashyap Aged About 42 Years Assistant Manager (LAMPS) Adimjati Seva Sahakari Samiti Maryadit, Jamdi (Reg. No. 1193) Distt. Balrampur Ramanujganj C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The District Magistrate, Distt. Balrampur Ramanujganj C.G.
2. Food Officer Distt. Balrampur Ramanujganj C.G.
3. Sub Divisional Officer (Revenue) Kusmi, Distt. Balrampur Ramanujganj C.G.
4. Station House Officer P.S. Shankargarh Distt. Balrampur Ramanujganj C.G.
5. Branch Manager Distt. Cooperative Central Bank Maryadit Branch Kusmi, Distt. Balrampur Ramanujganj C.G.
6. Distt. Marketing Officer (DMO Zila Vipnan Adhikari) C.G. State Marketing Federation Office At Balrampur Distt. Balrampur Ramanujganj C.G.

---- Respondents

For petitioner - Shri A.K. Yadav, Advocate.
For State – Shri Wasim Miyan, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

21/06/2018

1. Instant petition is against the quashment of the FIR bearing No.16/2014
2. As per the prosecution case, FIR was lodged by the Assistant Branch Manager, District Cooperative Bank, Kusmi, District Balrampur that the petitioner was Assistant Manager of Paddy Procurement Centre Jamki. He has committed misappropriation of 6886.02 quintals of paddy worth Rs.7073955.85/-. Thereafter, on the basis of direction given by the sub divisional office investigating agency sought relevant

record from the complainant. Initially record could not be procured by prosecution subsequently the relevant documents were procured. Thereafter after lodging of the FIR present petition was filed and still it appears that charge sheet has not been filed.

3. Learned counsel for the petitioner would submit that no criminal liability can be attached to the petitioner in as much as though there the letters were written by the petitioner to the respective parties to lift the paddy ensuing rainy season but they failed to do so which resulted into destroy of the paddy and got rotten. Subsequently, it is stated that writ petition was filed by the petitioner bearing W.P.(C) No.231 of 2014 alongwith others. When recovery notice was served to them on the ground that dispute is covered under section 64 of the Cooperatives Societies Act and thereafter dispute was referred to the Registrar Cooperative Societies and which is pending, for the same cause FIR cannot be sustained.

4. Perused the FIR. FIR purports that petitioner when in the charge of the Paddy Procurement Centre, Jamki misappropriated 6886.02 quintals of paddy worth Rs.7073955.85/- and shortage was found for the year 2012-2013. FIR also purports that deliberate shortage was shown and there has been misappropriation in the stock and forged sale was also shown which caused loss to the Cooperative Society. Therefore, FIR at the threshold cannot be stated to be devoid of force unless and until it is investigated. It is not a case where uncontroverted allegation made in the FIR it do not disclose commission of offence or make out a case against the accused. FIR if it is accepted on the face value in the entirety cannot be said that no offence is made out against the petitioner.

5. In the result, at this stage quashing of the FIR will amount to exonerating the petitioner without going into merits of the case. Considering the same, I am not inclined to quash the FIR at the threshold. Accordingly, the petition has no merit and it is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE