

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

(102)

Crl. Misc. No.M-50147 of 2017 (O&M)

Date of Decision: January 09, 2018

Gurbhej Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Saurabh Kapoor, Advocate, for the petitioner.
Ms. Samina Dhir, DAG, Punjab

Amol Rattan Singh, J. (Oral)

Learned counsel for the petitioner contends that as per the agreement, Annexure P-1, only 200 tones (2000 quintals) of paddy could have been allotted to his mill and therefore, the allegation in the FIR, that there was a shortage of 12840.10 quintals out of a total 59687.65 quintals allotted to his mill, is an allegation wholly without basis.

He further submits that no release order was ever issued by the complainant corporation for the amount of paddy which is shown to have been released to him.

However, a perusal of the FIR, Annexure P-4, shows that receipts for an amount of Rs.59687.65 quintals of paddy were actually issued by the petitioner himself, i.e. Gurbhej Kumar.

On query, he submits that as regards the Award passed in favour

of the Corporation, by the Arbitrator, it is actually an ex parte Award and therefore the stand of the petitioner could not be brought out properly.

A perusal of the Award shows that after ex parte proceedings were initially ordered against the petitioners' firm, that order was recalled, but thereafter it seems that again ex parte proceedings were ordered upon none appearing for the firm.

Even though no notice has been issued in this case, learned State counsel has instructions to defend the case, as petitions filed under Section 438 Cr.P.C. by the partner of the present petitioner have also been dismissed.

On query to learned State counsel, on instructions from ASI Sukhwinder Singh, she submits that as a matter of fact the petitioner firstly signed a receipt accepting that the entire quantity of 170537 bags weighing 59687.65 quintals of paddy bags was received by his firm and secondly, he and his partner also executed an affidavit to that effect. She has produced copies of these documents from the police file.

That being so, I see no reason at all to entertain this petition, which is consequently dismissed.

However, nothing stated hereinafore would be taken to be as a comment on the actual merits of the offence alleged against the petitioner and his partner, which would obviously be gone into in detail by the investigating agency and the trial Court, if it comes to that stage.

The observations herein made are wholly in the context of the

application seeking anticipatory bail.

It is to be noticed that the learned counsel for the petitioner has also submitted that in any case all evidence that the complainant wishes to rely upon is documentary in nature and therefore custodial interrogation of the petitioner would not be required.

Having considered that argument, though it is not without merit, however, it is seen that embezzlement of paddy/milled rice allotted for such milling by Government agencies has become a regular feature for the past few years in this part of the country and therefore, granting anticipatory bail in the face of the huge amount of embezzlement alleged, which allegation is on the basis of documents relied upon by the complainant, in the opinion of this court, sends a very wrong signal in such like circumstances, possibly encouraging other millers nursing similar intentions.

January 09, 2018
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(**Amol Rattan Singh**)
Judge

Whether reasoned/speaking: Yes
Whether reportable: no