

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47608 of 2018

Arising Out of PS. Case No.-200 Year-2015 Thana- LALGANJ District- Vaishali

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Pankaj Kumar, S/o Bishundeo Rai, R/o Village Raghunathpur Patti, P.S. -
Vaishali, District - Vaishali at Hajipur.

... .. Petitioner/s

Versus

1. State of Bihar
2. The Managing Director, Bihar State Food and Civil Supply Corporation Ltd., Old Secretariat, P.S. Sachivalaya, District Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Navjot Yesu

For the Opposite Party/s : Mr. Sir Pramod Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 17-12-2019 This application has been filed for quashing of the

F.I.R. bearing Lalganj P. S. Case No. 200 of 2015 dated

13.07.2015 for the offences under Sections 406 and 420 of the

IPC.

The case in short is that a written report was filed by
the Branch Manager of Vaishali District Central Co-operative
Bank Limited that petitioner is the Chairman of the Panchayat
PACS and for purchase of Paddy from the farmers for the year
2012-13, he has been given Rs.5.03,164.57/- and an agreement
was made on 28.02.2013, the Paddy was purchased, but instead
of supplying to S.F.C. in order to realize the amount, petitioner
sold the Paddy in open market and defalcated the amount.



Learned counsel for the petitioner has drawn my attention towards the Annexure-2, it has been submitted that petitioner has already deposited the amount of Rs.6,11,000/- for 7613.20 quintals for the Paddy and while granting the anticipatory bail to the petitioner, the same has been considered that has not been controverted and petitioner was allowed to anticipatory bail which will appear from Annexure 7, but in spite of that this F.I.R. has been lodged and in such a situation, in continuation of investigation no case is made out against the petitioner, shall be a futile exercise, as he has already deposited the amount and that amount to be vexatious and malicious proceedings against the petitioner, prior to lodging of F.I.R.

On the other hand, learned counsel for the S.F.C. has opposed this application on the ground that F.I.R. disclosed *prima facie* materials available against the petitioner. So far submission of learned counsel for the petitioner that he has already deposited the amount can only be verified by the Investigating Officer and as such, there is no ground for quashing of the F.I.R.

Having heard both sides, so for quashing of the F.I.R. it can be interfered, if no case is made out on the face value of the F.I.R. or the allegation is absurd but in the present case, it



appears from the perusal of F.I.R. case of misappropriation and defalcation is made out against the petitioner. So far his submission that he has already deposited, that can only be verified during the investigation of the case.

Considering the same, I am not inclined to quash the F.I.R. in the present case.

However, petitioner is always at liberty to show those documents to the I.O., who will examine the same, enquire from the authority concerned while submitting the final report in this case.

Accordingly, this application is disposed of with the above direction.

(Vinod Kumar Sinha, J)

Sunil Shukla/-

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