

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1291 of 2019

Arising Out of PS. Case No.-339 Year-2016 Thana- TURKAULIYA District- East
Champaran

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Indu Devi, aged about 40 years (F), Wife of Binod Kumar, Resident of Village
- Fulwar Tola Brahmpura, P.O.- Fulwar, P.S.- Banjariya, District- East
Champaran, The Chairman of Fulwar Primary Agriculture Credit Society,
East Champaran

... .. Petitioner

Versus

1. State of Bihar through Additional Chief Secretary Food And Consumer
Department, Bihar, Patna
2. The Registrar Co-Operative Society, Patna, Bihar
3. The District Collector, Motihari, East Champaran
4. The Superintendent of Police, East Champaran
5. District Cooperative Officer, Motihari, East Champaran
6. The Managing Director, Motihari Central Co-operative Bank Ltd, Motihari,
East Champaran

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Krishna Mohan Mishra-Advocate
For the Respondents	:	Mr. S. Raja Ahmad-AAG-5

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

09-09-2019

Defects, as pointed out by the stamp reporter, are
ignored.

2. Heard learned counsel for the petitioner and
the learned counsel for the State.

3. This application under Articles 226 and 227 of
the Constitution of India has been filed by the petitioner for
quashing the first information report (for short “F.I.R.”) of
Turkaulia (Banzariya) P. S. Case No.339 of 2016 dated



01.08.2016, registered under Sections 420 and 409 of the Indian Penal Code.

4. Learned counsel appearing for the petitioner submitted that as per allegation made in the F.I.R., no prima facie case is made out against the petitioner. According to him, the Chairman of Primary Agricultural Cooperative Credit Society (for short "PACCS") cannot be held guilty for committing cheating or criminal breach of trust for not supply of rice to the State Food Cooperation. He contended that the petitioner is the Chairman of Fulwar PACCS in the District of East Champaran, Motihari. The State of Bihar had floated a scheme wherein the cooperative society was given direction to procure paddy directly from farmers through PACCS. In addition, the bank was also given direction to grant advance to PACCS for purchase of paddy after entering into an agreement with the bank. Thus, the petitioner entered into a tri-partite agreement in the capacity of Chairman of the PACCS with the Central Cooperative Bank and the Bihar State Food and Civil Supply Corporation, whereby the PACCS had an account in the Central Cooperative Bank, Motihari, which had sanctioned loan for purchase of paddy from the farmers.

5. He contended that as per the scheme, the



PACCS was required to get paddy milled and milled rice was required to be deposited to the State Food Corporation.

6. He pleaded that no allegation has been made against the petitioner in her individual capacity.

7. His further contention is that in case of any dispute, the same is to be referred to the Registrar, Cooperative Societies and no criminality could have been attached with regard to non-supply of rice by the PACCS to the State Food Corporation.

8. On the other hand, learned counsel appearing for the State submitted that there is direct and specific allegation that though the PACCS in question had to supply 4135.91 quintals to the State Food Corporation, it supplied only 2608.81 quintals of rice. Hence, 1527.1 quintals of rice amounting to Rs.32,13,746.73/- had been defalcated. He contended that the petitioner being the Chairman of the PACCS was actively involved in the alleged defalcation.

9. In view of the allegations made in the F.I.R., as contained in Annexure-1 to the present application, it cannot be said that no cognizable offence is made out. Since there is specific allegation of criminal breach of trust and huge amount is alleged to have been defalcated by the petitioner in the



capacity of the Chairman of the PACCS, no illegality can be found either in the institution of the F.I.R. or its investigation.

10. In that view of the matter, there is no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11.09.2019
Transmission Date	11.09.2019

