

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.34 of 2017**

Arising Out of PS. Case No.-19 Year-2015 Thana- AJIMABAD District- Bhojpur

Pawan Kumar @ Pawan Kumar Singh, son of Nirmal Kumar Singh, proprietor of MS Jai Neelkanth Rice Mill, Sandesh Bhimpura, resident of village + P.O. + P.S.-Bihita, District- Patna.

... .. Petitioner

Versus

1. The State Of Bihar, through Principal Secretary, Department Of Food And Civil Supplies, Government Of Bihar, Patna.
2. The District Manager, Bihar State Food & Civil Supplies Corporation Limited, District- Bhojpur.

... .. Respondent/s

**Appearance :**

|                      |   |                                                                |
|----------------------|---|----------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Ravi Prakash, Advocate<br>Mr. Sanchay Srivastava, Advocate |
| For the State        | : | Mr. Arvind Ujjwal, SC-4<br>Mr. U. P. Singh, AC to SC-4         |
| For BSFC             | : | Mr. Shailendra Kumar Singh, Advocate                           |

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**  
**ORAL JUDGMENT**

**Date : 09-01-2019**

This writ petition has been filed by the petitioner for quashing the first information report (for short 'FIR') of Azimabad P. S. Case No. 19 of 2015 dated 11.04.2015 registered under Sections 406 and 420 of the Indian Penal Code.

2. The FIR is annexed as Annexure-1 to the present application. On perusal of the same, I find that the informant, Mr. Rajeev Ranjan, District Manager, State Food Corporation (for short 'SFC'), Bhojpur has alleged in his written report, dated 04.04.2015, submitted to the Officer-in-charge, Azimabad



that the petitioner is the proprietor of M/s Jai Neelkanth Rice Mill, Sandesh, Bhimpura. He entered into an agreement with the SFC for milling and processing paddy into custom milled rice (for short 'CMR'). He had received about 35955.2 quintals of paddy from the SFC and had to deposit 67 per cent of the CMR till the last date fixed by the Government. He deposited only 18360 quintals of the CMR in the godown out of 24116.78 quintals of CMR. It is further alleged that the paddy supplied to the petitioner belonged to the Government and was to be used for the benefits of persons living below poverty line as also under Antyodaya scheme. Non-deposit of CMR has caused financial loss of Rs.1,24,66,661.16/- to the SFC.

3. Learned counsel for the petitioner has contended that the FIR is misconceived. There was an agreement between the parties and, in terms of agreement, the petitioner had already deposited the alleged amount of loss caused to the SFC. He contended that under the terms of agreement, the SFC was entitled only to initiate certificate proceedings against the petitioner in case of any default, but the SFC has acted in haste and instituted a criminal prosecution against the petitioner.

4. In reply, learned counsel appearing for the SFC submitted that it is not correct that the petitioner has deposited



the entire amount of loss caused to the SFC. He contended that there was a huge scam in the State of Bihar and in different districts for which, more than one thousand FIRs had been instituted alleging misappropriation of Government money. He further contended that a large number of cases were heard by this court earlier and all the points taken by the petitioner in respect of maintainability of the FIR were dealt with in **M/s Jai Mata Di Rice Mill vs. The State of Bihar & Ors.** and its analogous cases, since reported in **2015 (4) BBCJ V-335** in which, after elaborate discussion on facts and law, this Court had dismissed the challenges made by various writ petitioners against institution of FIR wherein the *modus operandi* for causing financial loss to the SFC was the same as in the present case.

5. I have heard learned counsel for the parties and carefully perused the record.

6. At this stage, this Court would like to take judicial notice of the fact that a huge paddy scam surfaced in the State of Bihar in 2013-14 after the mill owners instead of supplying rice to the Government godowns sold it in the open market resulting in loss of multi-crore to the State exchequer. More than one thousand FIRs have been lodged across the State. Pursuant to



the direction of this Court, a special investigation team of Crime Investigation Department headed by ADG (CID), Vinay Kumar has been asked to complete the investigation. The Supreme Court has also taken cognizance of the scam and has passed an order that all the paddy scam cases should be investigated separately and trial of all such cases should be completed in five special courts at Patna, Gaya, Chapra, Darbhanga and Purnia.

7. The FIR in question in the present case is one of those cases of paddy scam. Similar allegations were made in more than fifty FIRs. The respective accused persons had approached this Court for quashing of their respective FIRs. Those cases were heard together and vide common order dated 15.10.2015 passed in **M/s Jai Mata Di Rice Mill vs. The State of Bihar & Ors.** (Supra) after elaborately dealing with all the points taken by the respective petitioners, this Court has dismissed all those writ petitions.

8. The operative part of the order dated 15.10.2015 reads as under :-

“61. Considering the facts of the cases under consideration and the decisions of the Supreme Court referred to hereinabove, I am of the firm view that the FIRs in question



cannot and should not be quashed. The FIRs of the aforementioned cases are nascent documents, averments of which would take tangible shape only after the process of investigation in these cases is complete. On appraisal of the allegations made in the FIRs under consideration, I am unable to hold that they do not disclose the commission of any cognizable Offence, or that they merely disclose a breach of contract, or that existence of an arbitration clause, or pendency of a certificate proceeding or arbitration proceeding, ousts the jurisdiction of the investigating agency to investigate the offences alleged. The hazy picture presented by the allegations made in the FIRs would be rendered more and more clear when all the incriminating materials unfold during investigation. Even the names and other details of the culprits involved in the crime would be fully revealed only after the investigation culminates. In my opinion, if before all material facts are unearthed by the investigating agency and the FIRs are nipped in the bud, there cannot be greater injustice.

62. Given the quantity and magnitude of the multi-crore paddy scam and loss caused to the exchequer, a thorough probe with fairness and without inordinate delay is the need of



the hour. The investigating agency must exhibit sensitivity to pilferage of public money. It must unravel the modus operandi adopted for swindling public money, identify the characters involved and the beneficiaries of the scam, unveil the criminal conspiracy, and the role ascribed to each conspirator.

63. Looking at the magnitude of the offence, the Superintendents of Police concerned are directed to personally supervise and monitor the investigations of the cases in which there is allegation of dishonest misappropriation of paddy. The Superintendents of Police would be at liberty to direct further investigation in terms of clause (8) of Section 173 Cr.P.C. in the cases in which investigation has been completed and reports under clause (2) of Section 173 Cr.P.C. have been submitted, in order to unravel and unveil the conspiracy leading to the State-owned Corporation sustained huge losses.

64. In view of the discussions made hereinabove, the writ petitions are dismissed.”

9. Keeping in mind the allegations made in the FIR and the reasons assigned while dismissing the writ petitions in **M/s Jai Mata Di Rice Mill vs. The State of Bihar & Ors.**



(Supra), I see no merit in this application. The allegations made in the FIR do attract the ingredients of a cognizable offence. To hold investigation into a cognizable offence is the statutory right of the police.

10. In that view of the matter, the writ petition, being devoid of any merit, is dismissed.

**(Ashwani Kumar Singh, J)**

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 17.01.2019 |
| Transmission Date | 17.01.2019 |

