

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11225 of 2021

Arising Out of PS. Case No.-414 Year-2015 Thana- HAJIPUR SADAR District- Vaishali

Birendra Pratap, S/o Haridwar Singh, R/o Village Charnar, Varka, P.S. Gadh
Jaurva, District Rohtash, Bihar. Petitioner.

Versus

1. The State of Bihar.
2. State Food Corporation, through its District Manager, Vaishali at Hajipur.
Vaishali.
3. Santosh Kumar, S/o Late Krishna Singh, R/o Village-Prasauni, P.S-
Muhammadpur, District-Gopalganj, (bihar), the then District Manager, State
Food Corporation, Vaishali at Hajipur.

... .. Opposite Parties.

Appearance :

For the Petitioner/s : Mr. Vasant Vikas, Advocate
For the Opposite Party/s : Mr. Arun Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 05-05-2022 Heard learned counsel for the petitioner and learned
APP for the State.

By filing the present application preferred under
Section 482 of the Code of Criminal Procedure, 1973 (for short
the Cr.P.C.), the petitioner seeks for quashing the order dated
16.10.2019 passed by the learned Chief Judicial Magistrate,
Vaishali at Hajipur, whereby the learned Chief Judicial
Magistrate has taken the cognizance of the offences against the
petitioner under Sections 420 and 409 of the Indian Penal Code.

The allegation against the petitioner is that he has
misappropriated 47.60 quintals of paddy stored in the godown



of State Food Corporation, Vaishali and Hajipur. The total amount for the shortcomings/misappropriation comes to the tune of Rs.62,089.44/-.

Learned counsel for the petitioner submits that the petitioner has already deposited the alleged loss amount in the department and, in lieu thereof, a receipt has been granted to him. He further submits that there is no *prima facie* evidence in the police report to take cognizance of the case and to issue summons against the petitioner to face trial under Sections 420 & 409 of the Indian Penal Code. P.Ws. Amit Kumar, Dilip Kumar and Bidheshwar Yadav have not supported the allegation against the petitioner rather they have categorically stated that the petitioner has falsely been implicated in this case.

On the other hand, learned APP for the State vehemently opposing this application submitted that the petitioner has tried to siphon off the government money and the learned Magistrate has rightly taken cognizance against him.

After perusal of the case record and considering the submissions advanced on behalf of the parties, in my considered opinion, this application merits no consideration and is, accordingly, dismissed.

However, the petitioner is given liberty to raise all



such points before the learned Court below at the time of framing of charge.

(Anjani Kumar Sharan, J)

Sanjay/-

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