

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9393 of 2018

Arising Out of PS. Case No.-54 Year-2015 Thana- DURAULI District- Siwan

Om Prakash Yadav S/o Late Nand Lal Ray Resident of Hariharpur, Ward No. 09, P.S.-Hasanpur, District- Samastipur.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Munazirrul Islam, The District Manager, Bihar State Food Corporation, Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Advocate
For the Opposite Party/s : Mr. Md. Nazir Ansari

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

5 20-07-2023 Heard Mr. Krishna Prasad, learned senior counsel for the petitioner and learned APP for the State.

2. This application is filed for quashing the order dated 16.04.2016 by which learned Judicial Magistrate-1st Class, Siwan has taken cognizance against the petitioner in T.R. No. 3728/18, arising out of Darauli P.S. Case No. 54/2015 for the offence under Sections 409, 420 of the Indian Penal Code and Section 7 of the E.C. Act.

3. As per prosecution case, petitioner was the then Block Agriculture Officer-cum-Purchase Officer at Centre appointed by the District Officer, Siwan and he purchased 15363 quintals of wheat from the agriculturists/packs out which



14366.53 quintals wheat were stored in the Godown of Food Corporation and rest 966.47 quintals were auctioned by the petitioner only 872.90 were supplied to the auction purchasers and rest 123.57 quintals wheat were not supplied and thus it was defalcated which costs of Rs. 176215.76/-.

4. It has been submitted by learned senior counsel that by order dated 03.01.2023 the Director, Agriculture has exonerated the petitioner of all the charges in the departmental proceeding. It has further been submitted that the criminal case on the basis of the same charges cannot be continue in view of the law laid down by Hon'ble Supreme Court in the case of *Ashoo Surendranath Tiwari, vs. Deputy Superintendent of Police, EOW, CBI and Another (2020) 9 Supreme Court Cases 636*, the allegation in the departmental proceeding and the proceeding for prosecution is identical and the exoneration of the petitioner in the departmental proceeding is on merits and therefore the prosecution of the petitioner in the criminal case shall be an abuse of the process of the Court.

5. In these circumstances, this application is allowed.

6. The order dated 16.04.2016 by which learned Judicial Magistrate-1st Class, Siwan has taken cognizance against the petitioner in T.R. No. 3728/18, arising out of Darauli



P.S. Case No. 54/2015 is hereby quashed with respect to the
petitioner.

(Sandeep Kumar, J)

Ranjeet/-

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