

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1356 of 2021

Arising Out of PS. Case No.-256 Year-2018 Thana- ARA NAWADA District- Bhojpur

Broad Son Commodities Private Limited A Company Incorporated under the provisions of the Companies Act, 1956 having its registered Office at Dr. Himanshu Complex, Block Road, Koilwar Chouk, P.S.- Koilwar, District- Bhojpur (Ara), through its Director, Ashok Kumar aged about 65 years (Male), S/o Ram Chandra Saw, R/o Village/Mohalla- Pareo, P.S.- Bihta, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna
2. The Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna
3. The Director General of Police, Bihar, Old Secretariat, Patna
4. The Superintendent of Police, Bhojpur
5. The officer in Charge, Ara Nawada police Station, Bhojpur
6. The Principal Secretary, Mines and Geology Dept. Govt. of Bihar, Vikas Bhawan, Bailey Road, Patna
7. The District Magistrate cum Collector, Bhojpur
8. The Assistant Director, District Mining Office, Bhojpur
9. The Mines Inspector, District Mining Office, Bhojpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Suresh Samdarshi, Adv. With
	:	Mr. Shishir Shwetank Sudarshan, Adv.
For the Respondent/s	:	Mr. Naresh Dixit, Adv.
For the State/s	:	Mr. Gyan Prakash Ojha, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

8 27-04-2023 Heard learned counsel for the petitioner, learned
A.P.P. for the State and counsel for Mines Department.

Counsel for the petitioner submits that the present criminal writ petition has been filed for quashing Ara Nawada P.S. Case No.256 of 2018 dated 25.04.2018 lodged under Sections 420, 406, 409 and 120B of the I.P.C.

Counsel for petitioner submits that from the bare reading of F.I.R., it is crystal clear that there exists a contractual relation between the informant organisation and the accused

company for the period 2015 to 2019. From the contents, it transpires that the allegation of violation of the terms of contract and non-payment of Rs. 60,20,70,499/- has been made to which the informant is saying that it is fraud and embezzlement of the government money. Counsel submits that at worst, it is a dispute which may be treated as a commercial dispute or according to the statute, namely, Bihar Minor Minerals Concession Rule, 1972 and Rule 21(5) and Rule 37, there is specific provision made for realization of amount of rent, royalty or penalty payable under these rules used to be recovered under the Public Demand Recovery Act, 1914 (Act IV of 1914).

Counsel for petitioner submits that vide Annexure-7, the said amount for which the F.I.R. has been lodged is subject matter of CWJC No.6790 of 2018 with analogous cases in which the protection order dated 03.05.2018 has been granted in his favour.

Counsel for Mines Department submits that non-payment of such a huge amount, subject to fraud and therefore, investigation is required in this case.

Upon hearing the counsel of the petitioner and the Mines Department and after going through the documents, it transpires to this Court that bare reading of this statement is basically non-payment of royalty in the terms of contract as

from the F.I.R., the said royalty has to be paid within the period of the contract for whose realization, there is specific rule made under Rule 37 of the Bihar Minor Minerals Concession Rule, 1972 which states as follows:-

“ Mode of realisation of rents, royalties and penalty.- The amounts of rent, royalty or penalty payable under these Rules, shall be recoverable as a public demand under the Bihar Public Demands Recovery Act, 1914.”

At worst, it may be treated as commercial dispute. In this view of the matter that mode of realization of royalty is already mentioned in the statute i.e. by way of recovery through Public Demand following the principles of Bihar Public Demand Recovery Act, 1914.

This Court is of the opinion that filing F.I.R. is unnecessary and directing to the mines department to proceed according to Public Demand Recovery Act, 1914 for realization as per the statute and the present F.I.R. bearing Ara Nawada P.S. Case No.256 of 2018 is hereby quashed so far as the petitioner is concerned.

(Dr. Anshuman, J.)

prakashmani/-

U		T	
---	--	---	--