

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2430 of 2017

Arising Out of PS. Case No.-312 Year-2013 Thana- FATUA District- Patna

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Sushil Kumar S/o Late Deonandan Ram, Resident of Village- Birai, P.S.-
Daudnagar, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Home Department,
Govt. Of Bihar, Patna and Ors
2. The Principal Secretary, General Administration Department, Govt. of Bihar,
Patna.
3. The Additional Director General of Police cum In charge, S.I.T. Bihar,
Patna.
4. The District Magistrate, Patna.
5. The Senior Superintendent of Police, Patna.
6. The Officer-in-Charge-cum-S.H.O., Fatuha, P.S.- Patna.
7. The Investigating Officer, Fatuha, P.S. Case No.- 312/2013, Patna.
8. The Bihar State Food and Civil Supplies Corporation through its Managing
Director, R-Block, Patna.

... .. Respondent/s

with

Criminal Writ Jurisdiction Case No. 1983 of 2017

Arising Out of PS. Case No.-312 Year-2013 Thana- FATUA District- Patna

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Sanjay Kumar Singh son of Sri Lal Narayan Singh Resident of Village -
Pehleja, P.S. Mehendia, District - Arwal at present residing at Hirakunj
Apartment, Flat No. 301, P.S. Kadamkuan, District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar, Through The Principal Secretary, Home Department,
Govt. Of Bihar, Patna and Ors
2. The Principal Secretary, General Administrative Department, Govt. of Bihar,
Patna.
3. The District Magistrate, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Additional Director General of Police-cum-Incharge, S.I.T. Bihar.
6. The Inspector of Police, Fatuah, P.S. District - Patna.
7. Bihar State Food Corporation through its Managing Director, Daroga Prasad
Rai Path, Patna.



8. The Managing Director, Bihar State Food Corporation, Daroga Prasad Rai Path, Patna.

... .. Respondent/s

with

Criminal Writ Jurisdiction Case No. 2096 of 2017

Arising Out of PS. Case No.-312 Year-2013 Thana- FATUA District- Patna

Umesh Kumar Upadhyay Son of Late Ram Kumar Upadhyay R/o Adarsh Vihar Colony, Road No. 2, Rukunpura, P.S. - Rupaspur, District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar Through Principal Secretary, Department Of Home, Government Of Bihar, Patna and
2. The District Manager, State Food Corporation, Patna.

... .. Respondent/s

with

Criminal Writ Jurisdiction Case No. 2605 of 2017

Arising Out of PS. Case No.-312 Year-2013 Thana- FATUA District- Patna

Ajay Kumar Singh Son of Late Ram Bachan Singh, Resident of Village- Bahlolpar, P.S.- Parsa, District- Saran, at present residing at S.K. Colony Malahipakri, P.S.- Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar Through Chief Secretary, Government Of Bihar, Patna and Ors
2. Director General of Police, Bihar, Patna.
3. Principal Secretary, Food and Civil Supply Department, Government of Bihar.
4. Managing Director, State Food Corporation, Bihar, Patna.
5. Senior Superintendent of Police, Patna.
6. Station House Officer, Fatuha, Patna.
7. The Additional Director General of Police-cum-Incharge, S.I.T., Bihar.

... .. Respondent/s

Appearance :

(In Criminal Writ Jurisdiction Case No. 2430 of 2017)

For the Petitioner/s : Mr.Rajeev Lochan

For the Respondent/s : Mr.Shailendra Kumar Singh

(In Criminal Writ Jurisdiction Case No. 1983 of 2017)

For the Petitioner/s : Mr.Akash Chaturvedi



For the Respondent/s : Mr.Manish Kumar Gp4
(In Criminal Writ Jurisdiction Case No. 2096 of 2017)
For the Petitioner/s : Mr.Manindra Kishore Singh
For the Respondent/s : Mr.Sheo Shankar Prasadsc-8
(In Criminal Writ Jurisdiction Case No. 2605 of 2017)
For the Petitioner/s : Mr.Arvind Kumar Sharma
For the Respondent/s : Mr.S.Raza Ahmadaag5

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

20 08-05-2023

Ref. :- Cr. W.J.C No. 2430 of 2017 & Cr. W.J.C

No. 1983 of 2017.

This application has been filed for quashing the F.I.R of order dated 15.09.2017 in Fatuha P.S. Case No. 312 of 2013 (G.R. No. 2732 of 2013) passed by the Additional Chief Judicial Magistrate, Patna City by which the learned Magistrate has issued non-bailable warrant of arrest in a most mechanical manner without application of judicious mind as well as facts and circumstances of the case.

The petitioners were posted as Director Administration-cum-Additional Secretary, Education Department, Government of Bihar, Patna and Senior Deputy Collector, posted at Collectorate, Patna.

The short fact of the case is that State Government, issued detail guideline for procurement & milling of paddy during the kharif season 2012-13 wherein a detailed guideline was issued and it had been provided that the selected Millers would lift paddy from different procurement centres of the State



Food Corporation (SFC) and in turn they will make supply of CMR to the Food Corporation of India (FCI). In terms of the said process, after execution of agreement between the Proprietor of the M/s Siddhi Viyanak Rice Mill, Sonaru, Fatuha and the District Manager, State Food Corporation, Patna for milling of paddy & supply of CMR thereof, the Mill/Miller was provided altogether 29,200 quintals of paddy through different procurement canters but, not a single lot of CMR was supplied by the Miller even after various communications. That since, the Mill/Miller failed to supply a single lot of CMR even after receipt of 29200 quintals of paddy, it was a case of defalcation/embezzlement of govt. money and accordingly, the informant/Ajay Kumar Singh, who was posted & working as District Manager, State Food Corporation, Patna filed a written report before the Officer-in-Charge, Fatuha P.S. on 11.09.2013 for institution of FIR against Sri Arun Kumar, Proprietor of M/s Siddhi Viyanak Rice Mill, Sonaru, Fatuha for defalcation/embezzlement of govt. money amounting to Rs. 42367016/- and accordingly, Fatuha P.S. Case no.-312/2013 was instituted against Sri Arun Kumar, Proprietor of M/S Siddhi Viyanak Rice Mill, Sonaru, Fatuha u/s 406 & 420 of IPC on 12.09.2013.

Heard Sri Sanjay Mandal, learned counsel for the



petitioner, Sri Shailendra Kumar Singh, learned counsel for the BSFC and Sri Anajani Kr. Singh, learned counsel for the State.

It has been submitted by the learned counsel for the petitioner that the he is not named in the F.I.R. and he has been implicated in this case during the course of investigation after lapse of four years of lodging the F.I.R. The Petitioner has worked as District Nodal Officer, Patna by the District Magistrate, Patna for monitoring the procurement & supply of paddy during the Kharif season 2012-13.

It has been submitted that on behalf of the BSFC that the charge-sheet has been submitted against the petitioner by the Investigating Officer, after investigating the case.

During hearing, this Court had called for the case diary and ask the Investigating Officer of the case to be personally present in this case. This Court has gone through the entire materials available in the case diary and the F.I.R. From reading of the F.I.R. and the case diary it appears that there is no material available against the petitioner which will connect him with any criminal act in the matter. There is no allegation against the petitioner in the F.I.R. as well as during investigation. The supervision is to be headed by the District Magistrate of the concerned district and nothing has come



during investigation against any of the supervisory authority i.e. the District Magistrate, Sub-divisional Magistrate and the petitioner even to remotely connect him with his crime.

From the materials available on record it appears that no offence whatsoever is made out against the petitioner. Moreover, no departmental proceeding has been initiated for any act of omission or commission alleged to have been committed by the petitioner.

As no offence is made out against the petitioner and in view of the law laid down by the Hon'ble Supreme Court in the case of *State of Haryana vs. Bhajan Lal (1992) Supp (1) SCC 335*, this application is allowed.

The F.I.R. of Fatuha P.S. Case No. 312 of 2013 (G.R. No. 2732 of 2013) passed by the Additional Chief Judicial Magistrate, Patna City as against the petitioner and the entire prosecution of the petitioner is hereby quashed.

Ref. :- Cr. W.J.C. No. 2096 of 2017

The F.I.R. of two co-accused has been quashed considering that there was no materials available against him.

Due to paucity of time, this case is listed for further hearing on **27th June of 2023**.

Ref. :- Cr. W.J.C. No. 2605 of 2017



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(Sandeep Kumar, J)

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