

CRM-M-3011-2019
Date of Decision: 28.11.2023

...Petitioners

....Respondents

Ms. Khushboo, Advocate for
Mr. Padamkant Dwivedi, Advocate
for respondent No.2-complainant.

2. As per the prosecution version recorded in the FIR, the petitioners being partners of M/s Swastik Agro Industries, Shahabad had entered into an agreement with Haryana Agro Industries Corporation Ltd. for custom milling of paddy. As per the said agreement, petitioners were allocated 4340.963 metric tonnes, which was to yield custom milling rice equivalent to 67 per cent amounting to 2908.445 metric tonnes. As per the case of the prosecution there is

a shortage of 598.761 metric tonnes of custom milling rice. It is alleged that the same has caused a loss to the State exchequer, to the tune of Rs.1,95,06,213.34/-, which is a result of conspiracy and fraud.

3. Learned counsel for the petitioner has argued that with regard to the aforesaid shortage during the Kharif Marketing Season (KMS) 2015-16 the matter is pending consideration before the learned Arbitrator and it is yet to be ascertained whether in fact there is a shortage of 598.761 metric tonnes or not. It is further submitted that receipt of 2908.445 metric tonnes of paddy in the hands of the petitioners is also to be established as the same is disputed not being supported by corresponding gate passes. Learned counsel for the petitioners further submits that pursuant to order dated 13.03.2020 read with order dated 04.10.2021, passed by this Court, the petitioner had joined investigation and is cooperating with the investigating agency.

4. Upon notice, status report by way of affidavit dated 22.07.2022 followed by status report dated 16.09.2023 has been filed. Learned State counsel submits that though the petitioner has joined investigation, he did not cooperate with the Police and no recovery was effected from him. It is, however, admitted that the specimen signatures, as desired, were given by the petitioners and the same were also sent to FSL, though the report received records that it is not possible to express any definite opinion on the questioned signature in comparison with the specimen signatures supplied.

5. Learned counsel appearing for respondent No.2-complainant has affirmed that the dispute with regard to allocation of the paddy and receipt of custom milling rice for KMS 2015-16 is pending adjudication before the learned Arbitrator and no award has been passed therein as yet. It is also not disputed that determination of actual quantity of paddy supplied and custom milling rice received is a matter that would attain finality in the ongoing arbitration proceedings.
6. Learned State counsel is not in a position to dispute that arbitration proceedings with regard to aforesaid allocation of paddy and receipt of custom milling rice are pending and would have a direct bearing on the criminal proceedings.
7. Heard learned counsel for the parties and perused the relevant record.
8. Keeping in view the above conceded factual matrix, without expressing any opinion on the merits of the case, the present petition is liable to be accepted.
9. Accordingly, the interim order dated 13.03.2020 that was continued vide order dated 04.10.2021, is made absolute.
10. It is however made clear that the petitioner shall continue to cooperate with the investigating agency as and when required.
11. Disposed of.

November 28, 2023

Sangeeta

(VIKAS SURI)

JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No