

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37004 of 2016

Arising Out of PS. Case No.-131 Year-2013 Thana- BHANGWANPUR HAT District- Siwan

Gopal Prasad son of Late Nand Kishore Prasad, resident of Village
Dumrawan, P.S Pakaribarawan, District Nawada.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Arvind Kumar Verma, son of Late Bhagwan Prasad, resident of Village Khajuria, P.S Sathi, District West Champaran, at present posted as Block Supply Officer, Bhagwanpur Hat, District Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar Agarwal, Advocate Mr. Sadanand Roy, Advocate
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate
For the State	:	Mr. Upendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

12 13-12-2024 The present petition, under Section 482 Cr.PC, has been preferred by the petitioner against the impugned order dated 27.05.2015, passed by learned C.J.M., Siwan in Bhagwanpur Hat P.S. Case No. 131 of 2013, whereby learned C.J.M. has taken cognizance of offence punishable under Sections 409 and 120B of the Indian Penal Code and Section 7 of the Essential Commodities Act against the three accused persons, including the petitioner.

2. As per the written report of Block Supply Officer, the petitioner was the In-charge of rice godown of State Food Corporation, situated at Bhagwanpur Hat. On 6th of July, 2013,



on information, when he visited the godown, he found that Mahindra Pick-Up was standing in the campus of block office without bearing any registration number and the driver having no license of the vehicle. The vehicle was loaded with 60 sacks of rice belonging to Bihar State Food Corporation. On asking by the informant, the driver did not show any document regarding the rice loaded in the vehicle and stated that as per direction of the owner of the vehicle, Manoj Kumar Gupta, he had come there to carry rice from the godown of Food Corporation. The driver also stated that even in the morning on the same day, he had already carried 60 sacks of rice from the godown, and after unloading that rice, he had come again to carry that rice. Thereafter, the informant visited the godown. But the petitioner who was In-charge of the godown, fled away on motorcycle. The vehicle and the rice were seized.

3. On the basis of the written report, Bhagwanpur Hat P.S. Case No. 131 of 2013 was registered on 06.07.2013 for offence punishable under Sections 406, 409 and 120 of the Indian Penal Code and Section 7 of the Essential Commodities Act against the petitioner and other co-accused, Manoj Kumar Gupta and Chandan Prakash, who were owner and driver of the vehicle respectively in question concerned. After investigation,



the charge-sheet was submitted by the police against the petitioner and other co-accused, who were named in the FIR and thereafter, the impugned cognizance order has been passed by learned C.J.M.

4. I heard learned counsel for the petitioner, learned APP for the State and learned counsel for the O.P. No.2.

5. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He refers to Certificate dated 18.10.2014, issued by District Manager, Bihar State Food Corporation, Siwan, wherein he has certified that the petitioner was In-charge of godown from 25.06.2012 to 31.12.2013, and during this period, there was no any defalcation of grain or damage. He further submits that even in the FIR, there is no allegation made by the driver against the petitioner.

6. Learned APP for the State and learned counsel for the O.P. No.2/informant vehemently oppose the prayer of the petitioner for quashing of the impugned order submitting that there is no illegality or infirmity in the impugned order. To substantiate their submissions, they further submit that for taking cognizance against the accused, only prime facie case is required to be made out as per the materials on record and as



per the FIR as well as the police material collected during investigation, there is sufficient material showing the complicity of the petitioner in the alleged offence. They further submit that even the Certificate issued by the District Manager, State Food Corporation, Siwan carries no weight in view of the fact that this certificate has no reference to the present FIR. Moreover, the certificate has been issued *suo motu* by the District Manager without any direction from any authority. In the certificate, there is also no reference of any date on which the District Manager had inspected the godown, nor has he given any detailed information of the inspection. Such facts show that just to save the skin of the petitioner and perhaps that of himself, he has issued the certificate. Hence his certificate bears no significance. He further submits that there is sufficient material in the case diary to show the complicity of the petitioner and for taking cognizance, even strong suspicion is sufficient.

7. I considered the submissions advanced by the parties and perused the relevant materials on record.

8. I find that in the written report leading to lodging of the FIR and the materials collected by the police during investigation, there is sufficient material to take cognizance of



the offence as alleged. I further find that the certificate issued by District Manager, State Food Corporation, Siwan, *prima facie*, it appears to be suspicious and to be issued to illegally protect the petitioner and perhaps himself.

9. As such, I find no merit in the present petition and, accordingly, it is dismissed.

(Jitendra Kumar, J.)

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