

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24244 of 2025

Arising Out of PS. Case No.-29 Year-2024 Thana- SURYAPURA District- Rohtas

Keval Raj @ Vikki, S/O Late Banke Bihari Singh, R/O Village and Post-Nonhar, P.S.- Suryapura, Bikramganj, Distt.- Rohtas, Bihar- 802212.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Rahul Kumar Singh, S/O Sunil Singh, R/o Village- Purshotampur, Post-Behra, P.S- Muffasil Ara, Distt.- Bhojpur, Bihar.
Posted as Incharge- Assistant District Supply Officer, Bikramganj, Dist.- Rohtas.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Dhananjay Kumar, Advocate Mr. Kumud Ranjan, Advocate Mr. Surendra Prasad Tiwari, Advocate Mr. Rajnish Kumar, Advocate Mr. Rajiv Ranjan, Advocate
For the Opposite Party/s	:	Mr.Parmeshwar Mehta, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT
Date : 26-06-2025

Heard learned counsel appearing on behalf of the parties.

2. Petitioner is a dealer under the Public Distribution System and prayed for the quashing of cognizance order dated 03.03.2025 passed by the learned J.M.F.C., Bikramganj, Rohtas and Chargesheet No. 312 of 2024 dated 10.10.2024 in connection with First Informant Report lodged as Suryapura P.S. Case No. 29 of 2024 dated 10.02.2024, where the petitioner was prosecuted for alleged commission of offence under Section 420 of the IPC.



3. As per allegation, wheat was found in excess of 34 Kg and rice with shortage of 24.83 quintals was found in Godown of petitioner.

4. The allegation of the petitioner indulging in black marketing was mere assumption without any basis. According to the assertions made in the written report of the Block Supply Officer which forms the basis for the F.I.R. he raided the godown premises of the petitioner on receipt of confidential information *qua* excessive of wheat and shortage of rice. However, he does not stated any allegation of the petitioner indulging in black marketing. In absence of any material to indicate indulgence in black marketing, the allegation of the petitioner indulging in black marketing is ill founded.

5. It appears from FIR that request was made to proceed under Section 7 of E.C. Act against petitioner but cognizance was taken for offences punishable under Section 420 of IPC. Face of FIR no where suggest any dishonest intention on behalf of petitioner that excessive wheat and shortage of rice was for cheating, even cognizance order is not speaking on this aspect

6. It would be apposite to reproduce para 102 of the ***State of Haryana and Ors. Vs. Bhajan Lal and Ors., reported in 1992 Supp (1) Supreme Court Cases 335*** , which reads as



under:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first informant report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated



under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent persons can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. In view of the discussions made in the foregoing paragraphs the intended prosecution of the petitioner is an abuse of the Court and has to be quashed. Accordingly, the application succeeds and the cognizance order dated 03.03.2025 passed by the learned J.M.F.C., Bikramganj, Rohtas and Chargesheet No. 312 of 2024 dated 10.10.2024 in connection with First Informant Report lodged as Suryapura P.S. Case No. 29 of 2024 dated 10.02.2024 in question is hereby quashed at admission stage itself, with all its consequential proceedings, if any, *qua* petitioner.

8. Accordingly, present quashing petition stands



allowed.

9. Let copy of this order be sent to the trial court,
without delay.

(Chandra Shekhar Jha, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.06.2025
Transmission Date	28.06.2025

