

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44268 of 2021

Arising Out of PS. Case No.- Year-0 Thana- District- Rohtas

Mandan Mishra, Son of Shobha Kant Mishra, Resident of Village - Kasraur
Basauli, P.O.- Kasraur, P.S. - Ghanshyampur, District - Darbhanga.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Ashutosh Singh, Advocate

For the Opposite Party/s : Mr. Mukeshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 21-01-2025

The present petition has been filed for quashing of the order dated 20.02.2017 passed by learned Chief Judicial Magistrate, Rohtas at Sasaram, whereby the learned jurisdictional Magistrate has taken cognizance against the petitioner for the offence under Sections 175 and 176 of the Indian Penal Code (for short 'IPC').

2. The prosecution case in short is that the Officer Incharge, Agrer Police Station forwarded a written complaint, whereafter the prosecution report was submitted against the petitioner in connection with Sasaram (Agrer) P.S. Case No.382 of 2015 for the offence under Sections 406, 420 and 409 of the IPC in which it has been submitted that a report was submitted against the petitioner for misappropriation of



42 CMR rice. The said report was submitted by the then District Food Supply Corporation, Rohtas. It has further been alleged that during course of investigation, it transpired that on query made by Superintendent of Police, Rohtas from the petitioner about the documents of 42 CMR rice but, even after issuance of notice to him under Section 91 of the Code of Criminal Procedure, the petitioner, who was the District Manager at that time did not give the said documents, neither records were made available before the Superintendent of Police, Rohtas. Said notice dated 25.10.2016 was made available to the office on 28.10.2016. Even then, till 10.12.2016, the compliance was not made. On the other hand, a reminder was issued by the Officer Incharge to the District Manager, State Food Corporation and demand was made for the documents with regard to the rice miller but, even then, no documents as made available to them.

3. During the course of argument, learned counsel appearing on behalf of the petitioner referred to memo No.8188 dated 16.10.2017 issued from the Superintendent of Police, Rohtas, wherein it was informed to District



Prosecution Officer, Sasaram as to withdraw the prosecution against petitioner for the reason that documents, which was demanded from State Food Corporation was now made available to police. It is submitted by learned counsel that non-availability of required documents was neither intentional nor deliberate for the reason that as it is apparent from the aforesaid letter that total of 149 cases were lodged between 2012-2016, *prima facie* caused a heavy work load.

4. It is submitted that in view of aforesaid, continuing with proceeding before learned trial court would only amount to abuse of the process of court of law.

5. Mr. Mukeshwar Dayal, learned APP opposed the quashing petition. However, he could not disputed the factual submissions as advanced by learned counsel appearing for the petitioner.

6. In view of aforesaid facts and circumstances, the impugned order taking cognizance dated 20.02.2017 passed by learned Chief Judicial Magistrate, Rohtas *qua* petitioner in connection with none F.I.R. Case No. 10 of 2017 is, hereby, quashed/set aside in view of Memo No.8188 dated



16.01.2017 as discussed above.

7. Let a copy of this judgment be sent to the trial
court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24-01-2025
Transmission Date	24-01-2025

