

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65172 of 2019

Arising Out of PS. Case No.-512 Year-2018 Thana- BARAUNI District- Begusarai

GAURI SHANKAR KUMAR S/o Arun Prasad Sah Resident of Har Har Mahadev Chauk, Harrakh Road, P.S.-Kotwali Chauk, District- Begusarai and Proprietor of M/S Mahalaxmi Seeds Corporation, Ambedkar Chauk, Kachahari, Road, Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gautam Kejriwal, Adv. Mr. Alok Kumar Jha, Adv. Mr. Akash Kumar, Adv. Ms. Preety Chaudhary, Adv. Mr. Aditya Raman, Adv.
For the Opposite Party/s :		Mr. Jharkhandi Upadhyay

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 08-01-2026 Heard the parties.

2. This application has been filed on behalf of the petitioner for quashing the FIR bearing Barauni P.S. Case No. 512 of 2018 registered for the offence under Section 420 of the Indian Penal Code read with Section 7 of the Essential Commodities Act, 1955 and under Section 9 of the Seeds Act.

3. The prosecution story in brief is that the informant of this case, namely Sri Rajesh Sharma, In-Charge Deputy Director, Bihar State Seed & Organic Certification Agency, Bhagalpur, had submitted a written inspection report dated 31.10.2018 before the Officer In-charge of the Barauni Police



Station, Begusarai, alleging therein that on 30.10.2018 and 31.10.2018, a raid was conducted by his team at the establishment of the petitioner ie. Mahalaxmi Seeds Corporation, Ambedkar Chauk, Kachahari Road, Begusarai. During the raid, it is alleged, that certain irregularities were detected in the petitioner's establishment. It is further alleged that the Seed Certification Inspector, Begusarai, namely, Sri Shashikant Kumar, was not given any prior intimation regarding intake of seeds by the petitioner's establishment.

4. It is further alleged that, at the time of intake of seeds, no inspection of the petitioner's establishment was done by the Seed Certification Inspector. Furthermore, the raw seeds were not categorized as per the requisite categorization stipulations ie. farmer-wise, lot-wise etc. Neither was this categorization applied on the processed seeds. The raw seeds were kept next to the certification machine in such a manner that it was difficult to quantify the amount of seeds as per the categorization.

5. It is also alleged that no documents were shown with respect to the source of the seeds and the farmers to whom the same would be made available. The inspection report further alleges that, perhaps, the seeds were procured from farmers in



Bhojpur, Ara, but no relevant transportation documents were furnished. Upon a quick look, it appeared that the seeds were of varied shapes and colors, including the presence of moisture. It is also alleged that the processing and packing of processed seeds was taking place at the same place where the dump of raw seeds was kept. The inspection report further alleges that the tags of the seed certification agency was found in the safeguarding of the employees of the petitioner's establishment whereas the same have to be in the safekeeping of the Seeds Inspector and the packing should also be done in the presence of the Seeds Inspector. The inspection committee also took a look at the videography done on 30.10.2018 and came to the conclusion that intake of masoor seeds was being done through tractors, pickup vans and trucks. As such, the petitioner's establishment, in the absence of any valid documents, was held liable for converting masoor foodgrain, procured from elsewhere, into seeds and that the same are in contravention to the rules and regulations governing the seed registration. The inspection report ended with a recommendation to cancel the registration of the petitioner's establishment with immediate effect and to blacklist the petitioner's establishment.

6. Learned counsel for the petitioner has submitted



that the Petitioner's certificate of registration and license issued by the competent authorities under the seeds act and the seeds rules were also cancelled by the authority concerned vide letter number 1305/basoca dated 01.11.2018 and letter number 1310/basoca dated 01.11.2018 and the same was challenged before this court in writ petition and vide an order dated 05.04.2019 this Court has quashed the order cancelling registration certificate and license of the petitioner.

7. Learned counsel for the petitioner further submits that a liberty was granted to the order dated 05.04.2019 to proceed afresh in accordance with law but despite the liberty, the authorities constituted under the Seeds Act 1966 and the Seeds Rules 1968 and the Seeds Control Order 1983 did not proceed against the petitioner any further and accepted the order of this court.

8. Learned counsel for the petitioner next submits that the Director, Bihar state seed and organic certification agency vide letter number 261/basoca Patna dated 16.04.2019 revoked with immediate effect the order of cancellation of all licenses and registration of the petitioner in light of the order of this Court and accordingly, the petitioner's certificate of registration and licenses issued under the Seeds Act 1966 and the Seeds



Rules 1968 and the Seeds Control Order 1983 have been renewed from time to time and even at present, the establishment of the petitioner is fully functional on the strength of such permissions granted by the competent authorities under statute.

9. In support of his submissions, the learned counsel for the petitioner has relied upon a judgment of this court dated 21.04.2025 passed in Cr. Misc. No. 13719 of 2017 in the matter of *Shiv Kumar Kejriwal versus The State of Bihar* which is in a similar circumstance where this Court quashed the criminal proceedings against the petitioner in the wake of the discharge of the concerned petitioner in civil proceedings of cancellation of certificate of registration initiated on same very set of allegations.

10. Learned counsel for the State has opposed the application of the petitioner.

11. I have considered the submission of the parties.

12. From the perusal of the records it appears that the license of the petitioner was cancelled on account of some irregularities found during the inspection but subsequently a coordinate bench of this Court vide order dated 05.04.2019 passed in *C.W.J.C No. 22987 of 2018* titled as '*Gauri Shankar*



Kumar vs State and Ors.’ had quashed the cancellation of the registration certificate and license of the petitioner and subsequently the respondents had restored the license of the petitioner and thereafter the license of the petitioner has been renewed from time to time and is still sustaining.

13. The Hon’ble Supreme Court in the case of ***Uttam Chand Vs. ITO reported in (1982) 2 SCC 543*** had quashed the prosecution under IT Act when the assessment order was sustained. Once the basis goes everything goes.

14. Further, the Hon’ble Supreme Court, in the case of ***Ashoo Surendranath Tewari Vs Deputy Superintendent of Police, EOW, CBI & Anr, (2020) 9 SCC 636***, has held as under:-

“8. A number of judgments have held that the standard of proof in a departmental proceeding, being based on preponderance of probability is somewhat lower than the standard of proof in a criminal proceeding where the case has to be proved beyond reasonable doubt. In *P.S. Rajya v. State of Bihar* [*P.S. Rajya v. State of Bihar, (1996) 9 SCC 1 : 1996 SCC (Cri) 897*] , the question before the Court was posed as follows: (SCC pp. 2-3, para 3)

“3. The short question that arises for our consideration in this



appeal is whether the respondent is justified in pursuing the prosecution against the appellant under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act, 1947 notwithstanding the fact that on an identical charge the appellant was exonerated in the departmental proceedings in the light of a report submitted by the Central Vigilance Commission and concurred by the Union Public Service Commission.”

9. *This Court then went on to state: (P.S. Rajya case [P.S. Rajya v. State of Bihar; (1996) 9 SCC 1 : 1996 SCC (Cri) 897] , SCC p. 5, para 17)*

“17. At the outset we may point out that the learned counsel for the respondent could not but accept the position that the standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to establish the guilt in the departmental proceedings. He also accepted that in the present case, the charge in the departmental proceedings and in the criminal proceedings is one and the same. He did not dispute the findings rendered in the departmental proceedings and the ultimate result of it.”

10. *This being the case, the Court then held: (P.S. Rajya case [P.S. Rajya v. State of Bihar; (1996) 9 SCC 1 : 1996 SCC (Cri)*



897] , SCC p. 9, para 23)

“23. Even though all these facts including the report of the Central Vigilance Commission were brought to the notice of the High Court, unfortunately, the High Court took a view [Prabhu Saran Rajya v. State of Bihar, Criminal Miscellaneous No. 5212 of 1992, order dated 3-8-1993 (Pat)] that the issues raised had to be gone into in the final proceedings and the report of the Central Vigilance Commission, exonerating the appellant of the same charge in departmental proceedings would not conclude the criminal case against the appellant. We have already held that for the reasons given, on the peculiar facts of this case, the criminal proceedings initiated against the appellant cannot be pursued. Therefore, we do not agree with the view taken by the High Court as stated above. These are the reasons for our order dated 27-3-1996 for allowing the appeal and quashing the impugned criminal proceedings and giving consequential reliefs.”

11. *In Radheshyam Kejriwal v. State of W.B. [Radheshyam Kejriwal v. State of W.B., (2011) 3 SCC 581 : (2011) 2 SCC (Cri) 721], this Court held as follows: (SCC pp. 594-96, paras 26, 29 & 31)*

“26. We may observe that the standard of proof in a criminal case is much higher than that of the adjudication proceedings. The Enforcement Directorate has not been able to prove its case in the adjudication proceedings and the appellant has been exonerated on the same allegation. The appellant is



facing trial in the criminal case. Therefore, in our opinion, the determination of facts in the adjudication proceedings cannot be said to be irrelevant in the criminal case. In B.N. Kashyap [B.N. Kashyap v. Crown, 1944 SCC OnLine Lah 46 : AIR 1945 Lah 23] the Full Bench had not considered the effect of a finding of fact in a civil case over the criminal cases and that will be evident from the following passage of the said judgment: (SCC OnLine Lah: AIR p. 27)

‘... I must, however, say that in answering the question, I have only referred to civil cases where the actions are in personam and not those where the proceedings or actions are in rem. Whether a finding of fact arrived at in such proceedings or actions would be relevant in criminal cases, it is unnecessary for me to decide in this case. When that question arises for determination, the provisions of Section 41 of the Evidence Act, will have to be carefully examined.’

29. *We do not have the slightest hesitation in accepting the broad submission of Mr Malhotra that the finding in an adjudication proceeding is not binding in the proceeding for criminal prosecution. **A person held liable to pay penalty in adjudication proceedings cannot necessarily be held guilty in a criminal trial. Adjudication proceedings***



are decided on the basis of preponderance of evidence of a little higher degree whereas in a criminal case the entire burden to prove beyond all reasonable doubt lies on the prosecution.

31. It is trite that the standard of proof required in criminal proceedings is higher than that required before the adjudicating authority and in case the accused is exonerated before the adjudicating authority whether his prosecution on the same set of facts can be allowed or not is the precise question which falls for determination in this case.”

12. After referring to various judgments, this Court then culled out the ratio of those decisions in para 38 as follows: (Radheshyam Kejriwal case [Radheshyam Kejriwal v. State of W.B., (2011) 3 SCC 581 : (2011) 2 SCC (Cri) 721] , SCC p. 598)

“38. The ratio which can be culled out from these decisions can broadly be stated as follows:

(i) Adjudication proceedings and criminal prosecution can be launched simultaneously;

(ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;

(iii) Adjudication proceedings and criminal proceedings are independent in nature to each other;



(iv) The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;

(v) Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;

(vi) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and (vii) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases.”

13. It finally concluded: (Radheshyam Kejriwal case [Radheshyam Kejriwal v. State of W.B., (2011) 3 SCC 581 : (2011) 2 SCC (Cri) 721] , SCC p. 598, para 39)

“39. In our opinion, therefore, the yardstick



would be to judge as to whether the allegation in the adjudication proceedings as well as the proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings, the trial of the person concerned shall be an abuse of the process of the court.”

15. In this case also the order of cancellation of the licence has been set-aside by the appellate authority which was the very basis for initiating the criminal prosecution. Since the root of the criminal prosecution has been removed, therefore, the prosecution of the petitioner cannot be allowed to continue on the same grounds.

16. Accordingly, this application is allowed and the FIR bearing Barauni P.S. Case No. 512 of 2018 is hereby quashed.

(Sandeep Kumar, J)

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