courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 30/08/2026

(2016) 05 PAT CK 0056

In the Patna High Court

Case No : Criminal Writ Jurisdiction Case No. 467 of 2015 Arising Out of P.S. Case No. 40 Year-2015 Thana-Shakurabad District-Jehanabad

Sheo Kumar Sharma Proprietor M/s Shiv Shakti Rice Mill APPELLANT

Vs

State of Bihar RESPONDENT

Date of Decision : 02-05-2016

Acts Referred:

Citation : (2016) 3 ECrC 512

Hon'ble Judges : Ashwani Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. Sanjan Kumar Sharan, Advocate, for the Appellant; Mr. Ritiesh Kumar, S.C.-33, for the Respondent

Final Decision : Dismissed

Judgement

Mr. Ashwani Kumar Singh, J. (Oral) - By way of the present application preferred under Articles 226 and 227 of the Constitution of India, the petitioner seeks quashing of the first information report (for short "the FIR") of Shakurabad P.S. Case No. 40 of 2015 dated 07.04.2015 registered under Sections 420 and 406 of the Indian Penal Code.

2. The petitioner is the proprietor of M/S Shiv Shakti Rice Mill situated at village Ayira, Police Station Shakurabad in Jehanabad District. The informant is the District Manager, Jehanabad of the Bihar State Food & Civil Supplies Corporation (for short "Corporation") which procures paddy, entrusts it to the persons/firms that have capacity of storage and requisite plant and machinery for milling paddy for its consequent conversion into rice. The Corporation procures paddy, where after it is stored in godowns belonging to the Corporation and thereafter, allocated for milling to the rice millers, like, the petitioner. The rice millers after milling and processing the paddy are required to return the rice in accordance with the terms and conditions of an agreement executed between the parties.

3. In the aforesaid case, for the financial year 2012-13, the petitioner was

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/sheo-kumar-sharma-proprietor-ms-...

entrusted with 18278.20 quintal paddy by the Corporation for the purpose of milling and was required to deposit 67 % of Custom Milled Rice (for short "CMR") after milling paddy to the Corporation. The CMR was required to be deposited by 31st December 2013. Despite reminders issued to the petitioner, he deposited only 7830.00 quintal of CMR. Uptill the date of institution of the FIR, 4416.39 quintal of CMR valuing Rs. Rs. 95,63,958.00 were still due from the petitioner. It has been alleged in the FIR that the petitioner has dishonestly misappropriated and defalcated CMR valuing Rs. 95,63,958.00 entrusted to him by the Corporation. On the basis of the aforesaid allegation, the Corporation through its District Manager, Jehanabad lodged the aforesaid police case quashing whereof has been prayed.

4. Learned counsel appearing for the petitioner has contended that there was an agreement between the parties in respect of milling paddy and the parties were bound by the terms and conditions of the agreement. The informant of the case has already filed a Certificate Case bearing No. 14 of 2014-15 before the Certificate Officer for recovery of the due amount. The petitioner has also filed an objection petition and the matter is still sub judice before the Certificate Officer, Jehanabad. He has further contended that the petitioner cannot be vexed twice with the same cause of action. He has further contended that there was an arbitration clause in the agreement and in case, the informant and/or the Corporation had any grievance against the petitioner, they could have invoked the arbitration clause for redressal of the grievance. Lastly, he has contended that the petitioner has no intention to dupe the Corporation and he is still ready to return the CMR.

5. Per contra, learned counsel appearing for the Corporation has contended that a large number of FIRs of identical nature were instituted by the Corporation in different districts of the State of Bihar. The accused persons of those cases filed several writ petitions before this Court for quashing of those FIRs on more or less identical grounds. All those cases were heard together by this Court and after discussing the facts of the case and the laws involved therein, this Court has already dismissed all those cases vide an elaborate judgment dated 05.10.2015 passed in the matter of M/s. Jai Mata Di Rice Mill & Anr. v. The State of Bihar & Ors. and analogous cases, reported in (2015) 4 BBCJ 335.

6. I have heard learned counsel for the parties and perused the record.

7. I find substance in the arguments advanced by the learned counsel appearing for the Corporation. All the points taken by the petitioner in the present case has been considered and analysed in detail by this Court in M/s. Jai Mata Di Rice Mill & Anr. v. The State of Bihar & Ors. (supra). The operative portions of the aforesaid judgment are being reproduced herein :-

"61. Considering the facts of the cases under consideration and the decisions of the Supreme Court referred to herein above, I am of the firm view that the FIRs in question cannot and should not be quashed. The FIRs of the aforementioned

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/sheo-kumar-sharma-proprietor-ms-…

cases are nascent documents, averments of which would take tangible shape only after the process of investigation in these cases is complete. On appraisal of the allegations made in the FIRs under consideration, I am unable to hold that they do not disclose the commission of any cognisable offence, or that they merely disclose a breach of contract, or that existence of an arbitration clause, or pendency of a certificate proceeding or arbitration proceeding, ousts the jurisdiction of the investigating agency to investigate the offences alleged. The hazy picture presented by the allegations made in the FIRs would be rendered more and more clear when all the incriminating materials unfold during investigation. Even the names and other details of the culprits involved in the crime would be fully revealed only after the investigation culminates. In my opinion, if before all material facts are unearthed by the investigating agency and the FIRs are nipped in the bud, there cannot be greater injustice.

62. Given the quantity and magnitude of the multi-crore paddy scam and loss caused to the exchequer, a thorough probe with fairness and without inordinate delay is the need of the hour. The investigating agency must exhibit sensitivity to pilferage of public money. It must unravel the modus operandi adopted for swindling public money, identify the characters involved and the beneficiaries of the scam, unveil the criminal conspiracy, and the role ascribed to each conspirator.

63. Looking at the magnitude of the offence, the Superintendents of Police concerned are directed to personally supervise and monitor the investigations of the cases in which there is allegation of dishonest misappropriation of paddy. The Superintendents of Police would be at liberty to direct further investigation in terms of clause (8) of Section 173 Cr.P.C. in the cases in which investigation has been completed and reports under clause (2) of Section 173 Cr.P.C. have been submitted, in order to unravel and unveil the conspiracy leading to the State-owned Corporation sustained huge losses.

64. In view of the discussions made herein above, the writ petitions are dismissed."

8. Keeping in mind the facts in issue and the reasons assigned in the judgment of this Court for dismissal of the writ applications in M/s. Jai Mata Di Rice Mill & Anr. v. The State of Bihar & Ors. and analogous cases (supra), this Court finds no reason to take a different view of the matter.

9. Accordingly, the application, being devoid of any merit, is hereby dismissed.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/sheo-kumar-sharma-proprietor-ms-…