

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**CRIMINAL MISCELLANEOUS No.25152 of 2024**

Arising Out of PS. Case No.-51 Year-2019 Thana- GHOGHARDIHA District- Madhubani

Manoj Kumar Singh, Son of Badari Narayan Singh, Resident of Village-  
Khangaon, P.S.- Pandaul, Dist.- Madhubani

... .. Petitioner

Versus

1. The State of Bihar
2. Om Prakash, Son of Shri Ram Dinesh Prasad, the then Assistant Manager,  
Bihar State Food Corporation, Ghoghardiha, Dist.- Madhubani, permanent  
resident of Village- Umravee Bigaha, Post- Shaistabad, P.S.- Okari, Dist.-  
Jehanabad

... .. Opposite Parties

*Acts/Sections/Rules:*

- Sections 406, 409, 420, 467, 471/34 and 120-B of the Indian Penal Code
- Section 7 of the Essential Commodities Act, 1955

*Cases referred:*

- *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra [(2021) 19 SCC 401]*

*Petition - filed to quash order whereby cognizance under has been taken by Sub Divisional Judicial Magistrate under Sections 409, 420 and 120-B of the Indian Penal Code and Section 7 of the Essential Commodities Act, 1955*

*Held - The dispute in issue was purely commercial in nature, which was given a criminal colour (Para 20)*

*SDPO after investigation exonerated the petitioner from crime in question but, only on the basis of supervision note, without having any further materials, the charge-sheet was submitted against the petitioner out of oblique motive. (Para 22)*

*Out of ulterior motive to save their own officials, the informant lodged this case against petitioner and particularly in view of arbitration award as passed in the Request Case showing all balance in favour of petitioner, the continuing with present criminal proceeding before the trial court would only amount to abuse of the process of court of law. (Para 23)*

*Petition is allowed. (Para 25)*

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**Appearance :**

For the Petitioner/s	:	Mr. Rana Vikram Singh, Advocate Mr. Ratnakar Jha, Advocate
For the Opposite Party/s	:	Mr. Parmeshwar Mehta, APP
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA  
CAV JUDGMENT**

**Date : 03-03-2025**

Heard Mr. Rana Vikram Singh, learned counsel  
appearing for the petitioner and Mr. Parmeshwar Mehta,  
learned A.P.P. for the State duly assisted by Mr. Shailendra  
Kumar Singh, learned counsel for the O.P. No. 2/B.S.F.C.

2. The present application has been filed by the  
petitioner for setting aside the order dated 15.12.2023  
passed by 9<sup>th</sup>/3rd Additional District and Sessions Judge,  
Madhubani in Criminal Revision No.274 of 2023, whereby the  
learned trial court has affirmed the order dated 21.09.2023  
passed by learned Sub Divisional Judicial Magistrate,



Jhanjharpur and rejected the revision application of the petitioner as well as for quashing the cognizance order dated 21.09.2023 passed by learned Sub Divisional Judicial Magistrate, Jhanjharpur, through which learned Jurisdictional Magistrate has taken cognizance under Sections 409, 420 and 120-B of the Indian Penal Code (in short 'I.P.C.') and Section 7 of the Essential Commodities Act, 1955 (in short 'E.C. Act') in connection with Ghoghardiha P.S. Case No.51 of 2019 registered for the offence punishable under Section 409/34 of the I.P.C. and Section 7 of the E.C. Act.

3. The prosecution, in short, that one Om Prakash, Assistant Manager of the State Food Corporation (in short "Corporation") filed a *fardbeyan* on 09.05.2019 before the Officer-in-Charge of Ghoghardiha Police Station stated therein that on 08.05.2019, seven trucks loaded with Custom Milled Rice (in short 'CMR') from Ghoghardih Godown were handed over to Shri Kumud Kumar Pandey, the representative of Manoj Kumar Singh (petitioner), the Logistic Contractor (Chief). It is further stated that all seven trucks loaded with 4700 bags weighing 2350 quintals of CMR were to be



delivered to different godowns of the Corporation in that area but, they were not delivered within the specified time. It is further stated that the Logistic Contractor embezzled all the CMR during transportation in connivance with his representative and drivers.

4. On the basis of aforesaid *fardebayan*, the present First Information Report (in short 'F.I.R.') was registered against the petitioner and others for the alleged offences punishable under Section 409/34 of the I.P.C. and Section 7 of the E.C. Act and it was registered as Ghoghardiha P.S. Case No.51 of 2019 dated 09.05.2019.

5. Mr. Rana Vikram Singh, learned counsel appearing for the petitioner while arguing this matter submitted that on the day of occurrence i.e. on 08.05.2019 petitioner had gone to Bangalore for the admission of his son in Engineering College and he was completely unaware about the alleged incidence/occurrence. It is submitted that the informant himself in connivance with the employee of the petitioner without having knowledge of the petitioner misappropriated the alleged consignment of food-grains



(CMR) and make petitioner himself as a victim of the circumstances. It is pointed out that when the occurrence came into the knowledge of the petitioner by his representative, he immediately came back from Bangluru and made inquiry at his personal level. On his own effort, the petitioner recovered all seven trucks and 1777 quintals of rice, which was handed over to the Department but, despite of same, the investigating agency after completion of investigation, submitted Charge-sheet No.80/2019 dated 31.07.2019 and sent up this petitioner for trial, making him as one of the accused of the occurrence.

6. Mr. Rana Vikram Singh, further submitted that the District Magistrate, Madhubani also got the matter inquired and clearly opined that there was a clear conspiracy in which officials of the Corporation were found involved and, therefore, a separate F.I.R. was also lodged against the officials and, accordingly, disciplinary proceedings were initiated against the officials of the Corporation. It is submitted that as delivery of rice was made by the Corporation at about 8 P.M. i.e. beyond the working hours



and Global Positioning System (in short 'G.P.S.') and tracking device was found switched off, for the same, Ghoghardiha P.S. Case No.130 of 2019 was also registered on 01.10.2019 against the Godown Assistant Manager, Ghoghardiha under Sections 420/409 of the I.P.C. and Section 7 of the E.C. Act.

7. It is submitted further that knowing the occurrence, when the petitioner came back on 09.05.2019 from Bangaluru, he himself tried to lodge a criminal case against his Manager and others, which was refused to be registered by the police and eventually the petitioner moved before Patna High Court through its Criminal Writ Jurisdiction Case No.1459 of 2019, which has been dismissed with an observation, in furtherance of which, the petitioner filed a Complaint Case No.653 of 2019 on 19.11.2019 against the officials of the Corporation under Sections 406, 409, 420, 467, 471/34 and 120-B of the I.P.C., where after conducting inquiry, the learned Jurisdictional Magistrate took cognizance under Sections 406 and 420 of the I.P.C. against the named accused persons through its order dated 20.02.2023. In the meantime, the police, after investigating Ghoghardiha P.S.



Case No.130 of 2019 registered on 01.10.2019 against Godown Assistant Manager, Ghoghardiha under Section 420/409 of the I.P.C. and Section 7 of the E.C. Act, which was instituted upon instruction of the District Magistrate, Madhubani, submitted charge-sheet against the accused persons through Charge-sheet No.27/2020 dated 28.02.2020, where learned trial court took cognizance on 04.01.2024.

8. It is submitted that taking note of all aforesaid backgrounds of litigations, the wife of petitioner namely, Anjali Devi represented the matter before S.D.P.O., Fulparas and brought entire materials with respect to Ghoghardiha P.S. Case No.51 of 2019. On said representation, the S.D.P.O., Fulparas inquired all the points raised in the representation and submitted his report on 18.09.2021 by which the S.D.P.O., Fulparas categorically opined that the petitioner was not involved in the alleged occurrence.

9. It is submitted that pursuant to the criminal case, the Corporation took action against the petitioner for cancellation of agreement, blacklisting, forfeiture of earnest



money, encashment of bank guarantee of Rs.20 Lakhs, forfeiture of security of Rs.10 Lakhs and also to recover the penalty amount of Rs. 4,23,22,,442.50. Against the said order, the petitioner moved before Patna High Court through Request Case No.69 of 2020 as to appoint the Arbitrator, where Hon'ble the Chief Justice, Patna High Court appointed Hon'ble Mr. Justice Navaniti Prasad Singh, the Former Chief Justice of Kerala High Court to resolve the dispute between the petitioner and the Corporation through its order dated 03.02.2021, wherein it is pointed out that the dispute with State Food Corporation was resolved in terms of the award dated 21.06.2022 by which the Hon'ble Arbitrator has allowed almost all the claims of the petitioner.

10. It is further submitted that in furtherance of aforesaid, the seized trucks of petitioner were also released in his favour from the court of 9<sup>th</sup> Additional Sessions Judge against the bond of Rs. 12 Lakhs.

11. It is submitted that in view of the order dated 25.04.2023 passed by this Court in Cr. Misc. No.19036 of 2023, where the Superintendent of Police, Madhubani was





directed to investigate the matter within three months, the Investigating Officer of this case submitted charge-sheet against this petitioner, where the learned Sub Divisional Judicial Magistrate, Jhanjharpur without considering all factual aspects, took cognizance against the petitioner.

12. While concluding argument, Mr. Rana Vikram Singh, learned counsel submitted that the dispute in issue primarily appears civil in nature guided by the arbitration and same appears also resolved and moreover, the occurrence was nothing but a result of conspiracy of staff of this petitioner and the officials of the corporation, when the petitioner was outside. It is submitted that this fact almost established during investigation. It is also pointed out that the concept of vicarious liability is alien to criminal jurisprudence.

13. It is further submitted that there is nothing on record, which may transpires that it was a case of conspiracy. In support of his submission, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra [(2021) 19 SCC 401]**.



14. It is submitted that the petitioner preferred the revision against the cognizance order, which was registered as Criminal Revision No.274 of 2023 and same was also dismissed on 15.12.2023, which is also one of the impugned orders of the quashing petition.

15. *Per contra*, Mr. Anil Kumar Singh No.1, learned APP duly assisted by Mr. Shailendra Kumar Singh, learned counsel appearing on behalf of the Corporation, while opposing the aforesaid quashing petition submitted that the five missing recovered truck, which was said to be owned by this petitioner, was wrongly submitted. It is pointed out that if the food-grains lifted from the godown not finally delivered to the concerned SFC godown, it amounting to black marketing of public food-grains for which the petitioner is liable. It is further submitted that upon inquiry, the G.P.S. system of all seven trucks were found off. However, he conceded to lodged the FIR against the Godown Managers. Learned counsel could not disputed the fact *qua* submissions that S.D.P.O., Fulparas upon inquiry, exonerated the petitioner from crime in question and also the core issue related with present occurrence was



subject of arbitration proceedings, being a commercial dispute.

16. It is further submitted that the matter was proceeded for arbitration under Request Case No.69 of 2020 before the Patna High Court, which was initiated on the request of this petitioner, where Mr. Navaniti Prasad Singh, former Chief Justice of Kerala High Court was appointed as sole arbitrator.

17. It would be apposite to quote paragraph nos. 20-30, 32 and 33 of the said arbitration proceedings, which are as under:-

***"20. Now so far as Claim Nos. 1, II, III and IV are concerned, we must first see the facts.***

***21. Claims are quoted hereunder.***

**Claim No. I:**

***Declaring the blacklisting order dated 29.05.2019 issued by the District Manager SFC Madhubani as null and void***

**Claim No. II:**

***a. Payment of dues bill amount against transporting-cum-handling bill of amount of Rs. 14,087,354/- and 6,49,822/- (MDM).***

***b. Deducted amount of Rs. 51,12,539/-***

**Claim No. III:**

***Refund of the earnest money amount of Rs.***



**2,00,000/-**

**Claim No. IV**

**Refund of Bank Guarantee amount of Rs. 20,00,000/- and Security Amount of Rs. 10,00,000/-.**

**22. It is not disputed that on 08.05.2019, 7 (seven) trucks of the Claimant were loaded with 2350 quintals of CMR for being transported to various godowns. As per the Agreement, and in fact, each of the trucks had a GPS Device fitted so that their movement could be tracked by the Corporation. It is also a fact that in breach of Corporation's rules, these trucks were loaded and dispatched after 8:00 PM by the officials of the Corporation and even though, after sometime, the GPS Locators were switched off, no immediate alarm was raised till almost evening of the next day when the FIR was lodged. Sufficient evidence has been brought on record and has not been disputed to show that on 08.05.2019, the Claimant was in Bangalore for admission of his son in Engineering College. He was to return on 11.05.2019, but having come to know of the aforesaid incident, he rushed back on 09.05.2019 itself. Upon reaching Madhubani, he traced the seven trucks and informed the police, whereafter trucks were seized in the police case already instituted. He was then instrumental in getting the drivers arrested and thereafter recovery of substantial amount of the said rice. The fact of recovery of rice is again not disputed and is**



*evident from Annexure-8 being the Office Order of the District Manager of the Corporation at Madhubani wherein, it is clearly shown that 1777 quintals of rice had been recovered out of 2350. It has been brought on record that the District Magistrate, Madhubani conducted the inquiry and found as per Annexure-16. the involvement of officials of the Corporation, and accordingly, a FIR was then lodged against the officials (Annexure-17), which was registered as Ghoghardiha Case No. 130 of 2019 dated 01.10.2019.*

*23. In my view, these established facts clearly show that though the illegal acts were done by the Manager of the Claimant, the Claimant was no part of those acts. It was all done without his knowledge, consent, or connivance. The Claimant himself was a victim of the circumstances. He was a victim of criminal conspiracy between some officials of the Corporation and his own men and that being so, the Claimant cannot be visited with punishments except to compensate the civil liability of loss suffered by the Corporation.*

*24. In substance, I find that the Claimant not knowing what was happening and having no part in it, cannot be made to suffer and that too, to the extent that has been done. It is in the light of this that the other claims have now to be adjudged.*

*25. Now I take up first claim (Claim No.I) which is with regard to Blacklisting Order dated 29.05.2019 issued by the District Manager of the*



***Corporation at Madhubani. It is said on behalf of the Corporation that the dereliction being undisputed, the blacklisting cannot be questioned. I am unable to agree. Blacklisting is a civil death, and in this case, it would amount to a civil death of the Claimant so far as his entire business of transporting is concerned. It has very serious consequences. In my view, unless it can be undisputedly established that the Claimant was involved directly or indirectly in the dereliction and it was within his knowledge and with his consent and connivance the dereliction was done, he cannot be penalized by way of blacklisting. If nothing, I may refer to the judgment of Piyush Kumar Vs. Bihar State Food and Civil Supplies Corporation, a judgment of the Patna High Court since reported in AIR 2019 Patna 204. Thus, on the facts, as found, the order of blacklisting cannot be sustained, and accordingly, the order dated 29.05.2019, as contained in Annexure-2, is held to be illegal, unsustainable, and unenforceable, and is quashed as such, and therefore, Claim No. I is decided in favour of the Claimant.***

***26. In view of the finding given above, the Claim Nos. III and IV with regard to forfeiture of Bank Guarantee of Rs. 20 lakhs and Security amount of Rs. 10 lakhs is held to be unsustainable, and accordingly, it is held that the Corporation is liable and is directed to refund the said amounts totaling to Rs.32 lakhs within a period of three months from the date of the***



*award, failing which, it would be liable to be refunded along with simple interest of 9% p.a. from the date of forfeiture to the date of refund.*

*27. Now I may come to Claim No. II. As apparent from Annexure-21, the communication of the Manager of the Corporation at Madhubani to the General Manager (Transport), Corporation's HQ at Patna being letter No.1500 dated 17.10.2019 (Annexure-21), substantial payments were already sanctioned to be made, bills having been scrutinized and passed for payment, but the same was denied on the ground that as the Claimant had defalcated 2350 quintals of CMR entrusted to him in terms of the Agreement, and thus had to pay a penalty in the shape of predetermined liquidated damages being five times the economic value of the cost of said rice. The economic value being Rs.3601.91 per quintal. The calculation would come 2350 quintals x Rs. 3601.91 which is equal to Rs.84,64,488.50 and multiplied five times, it would come to Rs. 4,23,22,442.50. Apparently, this is the amount which is said to be recoverable, which is far in excess of the payable amount. The amount payable as per Annexure-21 is Rs. 1,39,81,573/. It is on strength of this that the Corporation denies the payment aforesaid. The Corporation relies upon, inter-alia, Clause 3(d) r/w Clause 17.3 of the Agreement and lays claim for this penalty realization of Rs. 4.23 cr (approx.).*

*28. In my view, the answer to this is simple. In terms of Section 73 and 74 of the Contract*



*Act, if we read the said two clauses i.e. clause 3(d) and clause 17.3 of the Agreement, the clause contemplated a penalty, and that being so, even though it is quantified being liquidated damages, it cannot unilaterally imposed by a party. That would be a matter of discretion of the Tribunal/Court before which a dispute is brought and that would be the maximum that could be awarded. I may refer to the Supreme Court case being Fateh Chand Vs. Balkrishan Dass AIR 1963 SC 1405 Pr 11 and Pr 15. Therefore, to say that mechanically, upon default, the Corporation can impose and realize the penalty, as stipulated in the Agreement, is of no avail. Even factually, the calculation is wrong.*

*29. It is not disputed that out of 2350 quintals of CMR, 1777 quintals were duly recovered. Therefore, the only un-recovered amount of rice is what is lost which is 573 quintals and if this is taken to be lost rice, the compensation can only be at the economic rate of Rs. 3601.91, which comes to Rs. 20,63,894.43. Therefore, the first mistake which the Corporation has done is, it has charged for the entire 2350 quintals of rice ignoring the recovery, and thus, came to the calculation of Rs.84,64,488.50.*

*30. In my view, in view of the facts & circumstances noted above, the Claimant is liable to compensate the Corporation to the extent of Rs.20,63,894.43 only and that is only the amount that can be deducted from the bills which have been sanctioned for payment, as noted above,*





***totaling to Rs.1,39,81,573/- as per Annexure-21. Thus, the amount which I find is payable by the Corporation would be Rs. 1,19,17,678.57 as against the bills referred to in Annexure-21, and they, in my view, have been wrongly withheld. This amount was payable and due since October, 2019 for work already done by the Claimant and enjoyed by the Corporation.***

***Therefore, in my view, the Claimant would be entitled to principal amount of Rs.1,19,17,678.57 in respect of the outstanding bills (as per Annexure-21) along with simple interest @ 12% p.a. from October, 2019 to dates when payments are made. That effectively disposes of Claim No.II in favour of the Claimant and takes care of the counter claim of the Corporation.***

***31. In course of hearing, on behalf of Claimant, it was argued that the seven trucks that were sized should be ordered to be released. I don't think this can be done by this Tribunal. They are subject matter of confiscation proceedings under E.C. Act before the Collector, Madhubani. The Claimant may move him for release in view of the finding of this Tribunal, and there being no mens rea on the part of the Claimant, the Ld. Collector may consider the release application sympathically and pass appropriate orders as soon as possible.***

***32. Thus, to sum of up, the Claimant is entitled to and is granted the following relief as against the Corporation:***

***i) Black listing order is set aside,***



***ii) Refund of earnest money of Rs. 2,00,000/-with interest as awarded;***

***iii) Refund of Bank guarantee encashed of Rs. 20,00,000/-with interest as awarded;***

***iv) Refund of security amount of Rs. 10,00,000/- with interest as awarded;***

***v) to receive payment of Rs. 1,19,17,678.57 with interest as awarded towards outstanding bills;***

***33. The Claims are, accordingly, decided and allowed.***

***34. Parties shall bear their own costs for the proceedings, but as the Respondent-Corporation's share of Rs. 9,70,000/- as arbitrator fee, has been paid by the Claimant, the Claimant is entitled to and is granted this as cost from the Corporation as well.***

***35. The Award is prepared in triplicate. As each of the parties have supplied stamp papers (non judicial) of Rs. 2,000/- (Rupees two thousand only) two copies of the Award are drawn up and signed on those respective stamp papers for the respective parties and the third is for the records duly signed".***

18. It appears from aforementioned paragraph-31 of the arbitration proceeding that the claimant may move for release of vehicle in view of the finding of this Tribunal, and if there being no *mens rea* on the part of the claimant, the learned Collector may consider the release application



sympathetically and pass appropriate orders as soon as possible. Consequent upon, the matter was brought before the District Magistrate, Madhubani, who ordered against petitioner vide order dated 29.11.2022 as to confiscate the all seven truck. Against which, a revision petition was preferred before the learned Sessions Judge, being Criminal Appeal No.73 of 2022, wherein vide order dated 17.01.2023, the order dated 29.11.2022 as passed by District Magistrate, Madhubani was set aside and all seven trucks were released in favour of appellant/claimant. The release of aforesaid truck in favour of claimant suggest *prima facie* that the *mens rea* was absent on the part of claimant, which was a pre-condition as to consider such application, as observed through arbitral award dated 21<sup>st</sup> June, 2022 arising out of Request Case No.69 of 2020.

19. By taking reference of arbitral award, it was submitted by Mr. Rana Vikram Singh that as the Corporation was directed to refund Rs.1,19,17,687.57 with interest and also to refund the security amount, bank guarantee and earnest money beside the black-listing order was also set



aside, the BSFC being informant persuading this case with an oblique and ulterior motive, as there is nothing on record which may suggest on its face that petitioner was conspirator.

20. The dispute in issue was purely commercial in nature, which was given a criminal colour to save its own officials, who were made accused in Ghoghardiha P.S. Case No.130 of 2019, where the District Magistrate, Madhubani was the informant.

21. It would be apposite to reproduced **para nos. 12.4 and 57** of the legal report of Hon'ble Supreme Court as available through **Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra [(2021) 19 SCC 401]**, which is as under:-

“**12.4** In **State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335**, it is observed and held by this Court that save in exceptional cases where non-interference would result in miscarriage of justice, the court and the judicial process should not interfere at the stage of the investigation of offence. It is further observed that in a routine case where information of an offence or offences has been lodged, investigation commenced, search and seizure followed and suspects arrested, the resort to the unusual procedure of oral applications and oral appeals and interim stay order thereon would have the effect of interfering and staying the investigation of offences by the investigating officer performing statutory duty under CrPC.

**57.** From the aforesaid decisions of this Court, right from the decision of the Privy Council in the case of **Khawaja Nazir**



**Ahmad** (supra), the following principles of law emerge:

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences;
- ii) Courts would not thwart any investigation into the cognizable offences;
- iii) However, in cases where no cognizable offence or offence of any kind is disclosed in the first information report the Court will not permit an investigation to go on;
- iv) The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. (The rarest of rare cases standard in its application for quashing under Section 482 Cr. P.C. is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court);
- v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;
- vi) Criminal proceedings ought not to be scuttled at the initial stage;
- vii) Quashing of a complaint/FIR should be an exception and a rarity than an ordinary rule;
- viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities. The inherent power of the court is, however, recognised to secure the ends of justice or prevent the abuse of the process by Section 482 Cr. P.C.
- ix) The functions of the judiciary and the police are complementary, not overlapping;
- x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;
- xi) Extraordinary and inherent powers of the Court do



not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. During or after investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr. P.C. is very wide, but conferment of wide power requires the court to be cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint; and

xv) When a prayer for quashing the FIR is made by the alleged accused, the court when it exercises the power under Section 482 Cr. P.C., only has to consider whether or not the allegations in the FIR disclose the commission of a cognizable offence and is not required to consider on merits whether the allegations make out a cognizable offence or not and the court has to permit the investigating agency/police to investigate the allegations in the FIR.”

22. In view of aforesaid facts and circumstances, as the S.D.P.O. Fulparas after investigation exonerated the



petitioner vide his report dated 18.09.2021 from crime in question but, only on the basis of supervision note, without having any further materials, the charge-sheet was submitted against the petitioner out of oblique motive, as upon his persuasion, the D.M. Madhubnani getting *prima facie* fact correct, lodged Ghoghardiha P.S. Case No.130 of 2019 against the officials of BSFC. It also appears that the matter was decided effectively through arbitration between the parties, being a commercial dispute, where all orders of BSFC was set aside and was directed to pay Rs. Rs.1,19,17,687.57 to the petitioner.

23. Hence, in view of the aforesaid facts, it can be said safely that out of oblique and ulterior motive to save their own officials, the BSFC/informant lodged this case against petitioner and particularly, in view of arbitration award as passed in Request Case No. 69 of 2020, where all issues between the parties appears settled, showing all balance in favour of petitioner, the continuing with present criminal proceeding before the learned trial court *qua* petitioner would only amount to abuse of the process of court of law.



24. Accordingly, the order dated 15.12.2023 passed by 9<sup>th</sup>/3rd Additional District and Sessions Judge, Madhubani in Criminal Revision No.274 of 2023 as well as the cognizance order dated 21.09.2023 passed by learned Sub Divisional Judicial Magistrate, Jhanjharpur in connection with Ghoghardiha P.S. Case No.51 of 2019 are hereby quashed and set aside *qua* above-named petitioner.

25. Accordingly, the application stands allowed.

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

**(Chandra Shekhar Jha, J.)**

Sanjeet/-

AFR/NAFR	AFR
CAV DATE	28-01-2025
Uploading Date	03-03-2025
Transmission Date	03-03-2025

