

SUPREME COURT OF INDIA

Dwarika Das Rathi

Vs.

State of Chhattisgarh

CrI.A.No.1267/2018

(Kurian Joseph and S.Abdul Nazeer,JJ.,)

09.10.2018

JUDGMENT

Kurian Joseph,J.,

SLP(CrI)No.587/2017

1. Leave granted.

2. The appellant approached this Court aggrieved by the denial of protection under Section 438 Cr.P.C. The appellant is an accused in Crime No.123 of 2016 registered at Police Station Vidhan Sabha, Raipur, Chhattisgarh for offences punishable under Section 420 and 409 of the IPC read with Sections 3 and 7 of the Essential Commodities Act. The crux of the accusation is that the appellant who was running a rice mill did not return the required quantity of rice after custom milling. The deficit, according to the Investigating Officer, is to the tune of Rs.2,71,34,937/-. When the matter came before this Court, on 25.01.2017, this Court passed the following order:-

"Issue notice.On deposit of Rs.2,71,34,937/- with the State Government/Chhattisgarh State Cooperative Marketing Federation within a period of three weeks from today, with a further condition that the petitioner joins and cooperates with the investigation, in case the petitioner is arrested, he shall be released by the Officer concerned on personal bond of Rs.1,00,000/- (rupees One Lac) executed by the petitioner with two solvent sureties for the like amount."

3. The appellant has since reported that he could not raise that much amount of money. On that submission, this Court directed the State to attach the immovable properties of the appellant and put them to sale. Learned counsel appearing for the State submits that despite several attempts, the sale could not fructify.

4. On 08.05.2018, this Court, on the submission that the appellant was entitled to get certain compensation in respect of the acquisition of his land, issued direction to the Land Acquisition Collector to disburse that amount to the State.

5. Having heard the learned counsel for the appellant and learned counsel for the State, we do not find it necessary to continue this matter any further before us. The Investigating Officer is free to continue with his investigation. The State is permitted to attach all the immovable properties of the appellant and the bank accounts so as to cover up the deficit of the deposit, as directed by this Court.

6. The Trial Court is directed to pass appropriate orders at the time of conclusion of the trial with regard to the deposit/recovery already made.

7. The interim protection granted by this Court vide order 25.01.2017 is made absolute.

8. However, in case there is violation of any of the conditions of the bail, it will be open to the Investigating Officer to approach the Trial Court for cancellation of bail. We also make it clear that in case the appellant is summoned, after submission of the final report by the Investigating Officer, the appellant will appear before the Court and seek regular bail.

9. We also permit the appellant to seek appropriate orders with regard to the amount as presently quantified by the Investigating Officer based on which alone this Court issued direction for deposit, or for varying the quantum as calculated by the Investigating Officer or with regard to any other dispute on the amount already recovered.

10. The appeal is, accordingly, disposed of.

11. Pending applications, if any, shall stand disposed of.