

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.17358 of 2013

Arising Out of PS.Case No. -202 Year- 2010 Thana -NAWADA District- NAWADA

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1. Dilip Kumar S/O Sri Mohan Sharma R/O Village - Khokhari, P.S. Arwal,
District - Arwal

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Superintendent of Education - Cum - District Programme
Coordinator, Bihar Education Project, Nawadah

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry, Adv

For the Opposite Party/s : Mr. J.K.Singh, APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 23-07-2015

Heard learned counsel for the petitioner and learned APP
for the State.

2. The present application has been filed for quashing the
order dated 03.09.2012 passed by learned Chief Judicial
Magistrate, Nawada in connection with Nawada Nagar P.S.
Case No. 202 of 2010 for the offences under Sections 419, 420,
467, 468 of the Indian Penal Code.

3. According to the prosecution case, the petitioner being
the Secretary of Mahabodh Jan Swasth Sarvangin Vikas Kendra
received a sum of Rs. 2,50,000/- from the District
Superintendent of Education-cum-District Programme Co-
ordinator, Bihar Education Project Council, Nawada in terms of
agreement dated 06.02.2009 for running a one year course for
40 children, but however, the petitioner's institution was closed

prematurely without running the entire course.

4. It is submitted on behalf of the petitioner that pursuant to the order granting provisional bail to the petitioner in Cr. Misc. No. 24967 of 2012, the entire amount of Rs.2,50,000/- has since been deposited and no amount remains recoverable from the petitioner; rather he is entitled to some amount of refund in respect of partial work done.

5. This Court is of the view that in the above circumstances, no fruitful purpose will be served in continuing the prosecution against the petitioner, once the entire amount received by him in terms of the agreement has been deposited.

6. In this view of the matter, the impugned order dated 03.09.2012 passed by learned Chief Judicial Magistrate, Nawada in connection with Nawada Nagar P.S. Case No. 202 of 2010 is hereby quashed.

7. It is made clear that the amount of Rs. 2,50,000/- which has been deposited by the petitioner shall be paid back to the OP No. 2 . It shall be open to the petitioner to approach the OP No. 2 in respect of any claim for refund to which he may be entitled.

8. The petition stands allowed.

(Vikash Jain, J)

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