

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.26762 of 2012

Arising Out of PS.Case No. -10 Year- 2006 Thana -null District- GAYA

Surendra Singh S/o Late Chhedi Singh resident of village Khabra P.S. Konch Dist. Gaya.

.... Petitioner/s

Versus

1. State of Bihar.
2. Sheo Shankar Mandal Inspector of Post and Telegraph Daudnagar Sub Division Aurangabad.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 11-05-2015

The petitioner seeks quashing of the order of none discharge dated 07.06.2012 passed by the Chief judicial Magistrate, 1st Class, Gaya in G. R. No. 473 of 2006/1197 of 2012.

The case of the informant is that the petitioner as a Postmaster did not deposit the individual deposits of account holders in State exchequer and defalcated the same.

It has been submitted on behalf of the petitioner that when he moved for anticipatory bail vide Cr. Misc. No. 38113 of 2006 and submitted that he was in a position to explain the disparity in accounting he was granted provisional bail for eight weeks on 08.11.2006 so as to enable him to do so. The petitioner then appeared before the authority and placed the facts in order to reconcile the accounts upon which they were satisfied and hence the Investigating

Officer opined in the case-diary that no case of defalcation was made out. However, despite such an opinion later in a routine manner charge sheet was submitted upon which cognizance order was passed.

It has also been submitted on behalf of the petitioner that evidently the allegations in the first information report was with regard to misappropriation of individual deposits but later when it was explained and the authorities were satisfied the petitioner should be exonerated from prosecution.

The case diary was called for to enable the State counsel to look into it. On perusal of the same, he submits that in paragraphs 61 and 145 the Investigating Officer has recorded his opinion that the allegations of defalcation has no foundational facts.

In view of the aforesaid, the application stands allowed and the order of none discharge dated 07.06.2012 passed by the Chief Judicial Magistrate, 1st Class, Gaya in G. R. No. 473 of 2006/1197 of 2012 is hereby quashed.

However this order shall not give any undue advantage to the petitioner in any manner.

(Anjana Prakash, J)

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