

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1038 of 2013

Arising Out of PS.Case No. -null Year- null Thana -null District- SEKHPURA

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1. Md. Mukhtar Alam, S/O Late Md. Kallu Ansari, R/O Village- Pakri, P.S.- Pakribarawan, District- Nawada,
 2. Santosh Kumar, son of Shri Dashrath Ram, R/O Village- Bareo, P.S.- Akbarpur, District- Nawada, presently working as Junior Electrical Engineer, Electric Supply Section, Sheikhpura (Urban)

.... Petitioner/s

Versus

1. The State of Bihar
2. The Bihar State Electricity Board through its Chairman,
3. H.M. Kazmi, S/O Late Wasi Imam, resident of mohalla- Katra, Town and P.S.- Sheikhpura, District- Sheikhpura

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S. K. Upadhya, Advocate

For the Respondent/s : Mr. R. B. Roy 'Raman', APP

Mr. Pankaj Kumar, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 11-05-2015

Heard the parties.

The Petitioners seek quashing of the order dated 26.08.2013 by which the *Ad hoc* Additional Sessions Judge, 1st, Sheikhpura, has allowed Cr. Revision No.111 of 2013 and set aside the order of dismissal of the Complaint Case No.22-C of 2012 by the Chief Judicial Magistrate, Sheikhpura, vide order dated 03.04.2013, in terms of Section 298 Cr. P. C.

The background facts is that on the date of occurrence the Petitioners being Assistant Electrical Engineer of the Electricity

Board raided commercial complex of the Complainant and found certain irregularities. Having been aggrieved with such act, the Complainant filed the Complaint Case which was dismissed. However, the Complainant filed a revision which was allowed by the impugned order.

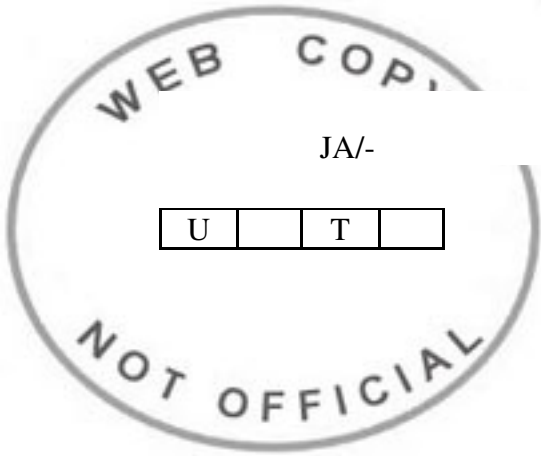
The Opposite Party No.2-Bihar State Electricity Board supports the contention of the Petitioners that since they are public servants, sanction was necessary.

On the other hand, counsel for the Complainant submits that it was not within their official duties to act in the manner that they did and hence, they should be prosecuted. It has been submitted that sanction was not required at the stage of cognizance and hence, the Complaint should not have been dismissed.

On going through the Complaint Petition, I would be inclined to hold that the Complaint Petition was malicious in nature should not proceed.

In view of such, the order dated 26.08.2013 passed by the *Ad hoc* Additional Sessions Judge, 1st, Sheikhpura, in Cr. Revision No.111 of 2013 setting aside the order of dismissal of the Complaint Case No.22-C of 2012 passed by the Chief Judicial Magistrate, Sheikhpura, vide order dated 03.04.2013, is hereby set aside.

The application stands allowed.



(Anjana Prakash, J)