

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32767 of 2011

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1. Sri Uday Shankar Sharma S/O Sri Harihar Sharma R/O Village-Bali
Pakar, P.O. & P.S.-Paliganj, Distt.-Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Officer-Cm-Head Census Officer, Kishanganj
3. The Sub-Divisional Officer, Kishanganj

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bishwambhar Maharaj, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL ORDER

5 31-07-2015 Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor.

Petitioner who happens to be Assistant Statistical Officer has failed to discharge his official duty during course of Census work directed by the Chief Census Officer-cum-District Magistrate, Kishanganj and on account thereof instant prosecution has been launched wherein, after submission of charge sheet vide order dated 30.5.2011, cognizance has been taken under Sections 166 and 188 of the Indian Penal Code.

Learned counsel for the petitioner submits that he had been Obvert with departmental proceeding wherein he has been found guilty and on account thereof, his increment has been withheld by way of punishment. It has further been submitted that the allegations so attributed against him are palpably false. Petitioner had discharged his function and for that he was paid remuneration thereof. It has also been submitted that as he has been punished under departmental proceeding, hence criminal

proceeding is unwarranted.

Departmental proceeding as well as criminal prosecution lies on two different pedestal, without having scope of override. Aforesaid theme has elaborately been dealt with by the Apex Court in State (NCT of Delhi Vs. Ajay Kumar Tyagi reported in (2012) 9 SCC 685. Furthermore, contention of the petitioner is to be tested during course of trial, as is factual one and on account thereof, for the present, I do not find any reason to interfere with the order impugned.

Petition is dismissed.

(Aditya Kumar Trivedi, J)

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