

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 10324 of 2013

Arising out of P. S. Case No. - 213 Year - 2011 Thana - NAUTAN District -

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1. Parmanand Prasad, S/O Late Nathuni Prasad Posted As Panchyat Supervisor In Nautan Prakhand P.S. - Nautan, Distt. - West Champaran, R/O Village - Mungaraha, P.S. - Majha, Distt. - Gopa Ganj and Presently R/O Vilage - Sirni Bazar, P.S. - Malahi, Distt. - Distt. - East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. Kumari Pratima Gupta, Block Development Officer, Block Nautan, Distt. - West Champaran

.... Opposite Party/s

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

2 07-05-2015

Heard.

This petition is directed for quashing the First Information Report of Nautan P.S. Case No. 213 of 2011 dated 30.10.2011 for the offences punishable under Sections 467, 468, 406, 409, 420 and 120B of the Indian Penal Code on the ground that petitioner was not posted at Gram Panchayat Raj Pakaria.

It has been submitted that the petitioner was granted provisional anticipatory bail by the High Court with condition that the Court below shall enquire whether the petitioner was posted in the Gram Panchayat at the relevant time and if it finds that petitioner is not posted in the Gram Panchayat Raj Pakaria then it will release the petitioner on bail. It is further submitted that the trial Court has granted bail to the petitioner on due enquiry and

hence, First Information Report be quashed against the petitioner.

The prosecution case in the First Information Report is that the accused persons including the petitioner conspiring with each other defalcated and withdrawn the amount meant for the beneficiary of Indira Awas Yogna by committing forgery and hence, having regard to the fact that the allegation made makes out a cognizance offence, the police has right to investigate the offence. However, the case is still at the stage of investigation and charge-sheet has not been submitted and hence, the submission that the trial court has on enquiry found the petitioner having not posted at the Panchayat is of no consequence for quashing unless the police report is submitted after investigation.

There is no question of having any trial as neither the charge-sheet has been submitted at this stage nor the cognizance of the offence has been taken and the case is still at the stage of investigation.

Hence, having regard to the fact that the offence under Sections 467, 468, 406, 409, 420 and 120B of the Indian Penal Code is made out in view of the allegations made in the First Information Report and the Police got a right to investigate the case, it is not proper at this stage to quash the First Information Report on the ground that the petitioner has been released on bail

or the defence set up by the petitioner that he was not posted at Gram Panchayat Raj Pakaria at that time when the offence alleged and it will be looked into at the stage of investigation. Hence, I do not find any merit in the petition. Accordingly, this petition is disposed of with direction to the Superintendent of Police, Bettiah, West Champaran to expedite the investigation for filing final form as the investigation is pending since 2011.

(Gopal Prasad, J.)

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