

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.7025 of 2013

Arising Out of PS.Case No. -505 Year- 2008 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

- =====
1. Sanjay Sah, S/O Deenanath Sah, R/O Village - Jagdishpur, Police Station - Vijaipur, District – Gopalganj, &
 2. Nagendra Kushwaha @ Nagendra Prasad, S/O Faudar Bhagat, R/O Village - Rewariya, Police Station - Bhorey, District - Gopalganj

.... Petitioner/s

Versus

1. The State Of Bihar,
2. Nagendra Singh, S/O Late Muktinath Singh, R/O Village - Jagdishpur, Police Station - Vijaipur, District - Gopalganj

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh, Advocate

For the Opposite Party/s : APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 06-07-2015

1. The Petitioners seek quashing of the order of cognizance dated 16.06.2008 passed by the Judicial Magistrate, 1st class, Gopalganj, in Complaint Case No.505 of 2008/Tr. No.1468 of 2013.

2. Case of the Complainant is that the Petitioners, who were Mukhiya and Panchayat Sewak and accused Ram Ekbal Singh, who was Assistant Teacher, withdrew ₹18,000/- on different dates and thus defalcated the government money. Earlier accused Ram Ekbal Singh had been appointed. When it came to know that the post was reserved for Scheduled Castes, appointment was withdrawn and one Amarjit Ram was appointed. The salary paid to

Ram Ekbal Singh was also withdrawn.

3. It has been submitted on behalf of the Petitioners that there was no entrustment of money with the Petitioners. There is no doubt that certain amount of money was withdrawn in course of business transaction but that was not defalcated and there is bald allegation in this regard.

4. On the last occasion, notice had been issued to the Opposite Party No.2 but none appears on his behalf.

5. Considering that there is only verbal allegation against the Petitioners which would be impossible to prove during the trial and hence, would be a nullity, I am inclined to allow the application.

6. Hence, the order of cognizance dated 16.06.2008 passed by the Judicial Magistrate, 1st class, Gopalganj, in Complaint Case No.505 of 2008/Tr. No.1468 of 2013 is hereby set aside.

7. The application stands allowed.

8. However, this order shall not give undue advantage to any party.

(Anjana Prakash, J)

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