

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45970 of 2012

=====

Asha Nand Mishra, Son of Late Shoba Kant Mishra, Resident of Village +
P.O. Bhithi Salempur, P.S. Pandaul, District Madhubani.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner : Shri R.N. Tiwary, Advocate

For the State : Shri Anish Chandra, APP

=====

CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

3 21-05-2015

Heard.

2. The allegation against the petitioner, namely, Asha Nand Mishra is that he himself and his wife on the basis of forged and fabricated documents of passing matriculation examination, obtained employment in the office of Civil Surgeon, Darbhanga. On the above allegation initially Bahadurpur P.S. Case No. 84 of 2009 under Sections 420 and 468 of the Indian Penal Code was registered. It was stated in the written report of the concerned Bahadurpur police station case that in spite of being asked to produce the relevant original records, the petitioner and his wife did not comply with the orders of the Civil Surgeon and that led the In-charge Medical Officer, Bahadurpur to file the written report on the basis of which Bahadurpur P.S. Case No. 84 of 2009 was registered.



3. Subsequently, the In-charge Medical Officer, Sadar Block, Darbhanga filed another report against petitioner Asha Nand Mishra alleging that on the basis of forged and fabricated matriculation mark-sheet, the petitioner obtained an employment by the orders of the Civil Surgeon-cum-Chief Medical Officer, Darbhanga through his Memo No. 2428 dated 05.08.2011.

4. It appears that the police found the allegations true in both the cases and laid charge-sheets and on that basis order of cognizance was passed firstly, in Bahadurpur P.S. Case No. 84 of 2009 (G.R. No. 775 of 2009) and by another order dated 09.08.2012 charges under Sections 420 and 468 were framed against the petitioner and his wife. As regards Darbhanga Sadar P.S. Case No. 324 of 2011 which was lodged on the written report of Medical Officer, In-charge, Darbhanga Block, it is evident from order dated 26.06.2012 that order of summoning and cognizance has been passed by the learned Chief Judicial Magistrate, Darbhanga only against the petitioner Asha Nand Mishra for putting him on trial.

4. The Court finds that the allegations are same and similar against the petitioner which were appearing against him in Bahadurpur P.S. Case No. 84 of 2006 may be that the

language of the two written reports was different. In effect both the written petitions which were the basis of instituting Bahadurpur P.S. Case No. 84 of 2009 and Darbhanga Sadar P.S. Case No. 324 of 2011 were alleging the same fact that the petitioner had obtained employment on the basis of forged and fabricated records. The petitioner cannot be tried twice for committing the same offence and he could not even have been tried for committing any further offence if the same has been committed within one year as appears from Section 219 Cr.P.C. Let the two trials arising out of Bahadurpur P.S. Case No. 84 of 2009 and Darbhanga Sadar P.S. Case No. 324 of 2011 be amalgamated together by framing the charges against the accused persons. If any order of charge has been passed or if any charges have been framed that order or charge is hereby quashed with direction to the trial court to frame the charges afresh by amalgamating the two cases together.

5. With the above observations, the petition stands disposed of.

(Dharnidhar Jha, J.)

Sanjay/-

U		T	
---	--	---	--