

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35833 of 2012

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Amit Kumar S/O Narsingh Yadav, resident of Rang Lal Yadav Lodge,
Satsang Nagar, Godda, P.O. and P.S.- Godda, District- Godda (Jharkhand)
..... Petitioner/s

Versus

1. The State of Bihar
2. Dr. Suresh Prasad Yadav, Principal, D.S. College, Katihar
..... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Advocate
Mr. Pranav Kumar Jha, Advocate
For the Opposite Party No.1 : Mr. Umanath Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 01-04-2015

Heard the parties.

2. The petitioner has approached this Court in the present proceeding filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing the order dated 19.07.2012 passed in Katihar Town P.S. Case No.614 of 2011 dated 16.10.2011 by learned Chief Judicial Magistrate, Katihar whereby cognizance for offences under Sections 379 and 427 of the Indian Penal Code has been taken and summon has been issued against the petitioner for facing the trial.

3. Learned counsel appearing on behalf of the petitioner submits that even if the prosecution case as disclosed in the FIR (Annexure-1) is taken to be true, even then offences under Sections 379 and 427 of the Indian Penal Code are not made out.

4. As per prosecution case, the petitioner is alleged to have taken away a duplicate OMR sheet of an examination being held at D.S. College, Katihar.

5. Mr. Umanath Mishra, learned Addl. P.P. appearing on behalf of opposite party no.1, after going through the case

diary, has fairly conceded that the ingredients for constituting offences under Sections 379 and 427 of the Indian Penal Code are not available.

6. After having heard the parties and on consideration of the materials available on record, this Court is satisfied that the offences under Sections 379 and 427 of the Indian Penal Code are not made out, as none of the ingredients for constituting such offences are available on the record in the present case. The continuance of the impugned criminal prosecution against the petitioner would be an abuse of the process of the court.

7. For the reasons recorded above, the impugned order dated 19.07.2012 passed in connection with Katihar Town P.S.Case No.614 of 2011 by the learned Chief Judicial Magistrate, Katihar as also consequential prosecution of the petitioner in the aforesaid criminal case are hereby quashed. The entire criminal prosecution in the aforesaid criminal case is directed to be dropped by the learned court below. The present application stands allowed.

(Birendra Prasad Verma, J)

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