

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48949 of 2012

Arising Out of PS.Case No. -null Year- null Thana -null District- -

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1. Dr. Satya Narayan Singh S/O Late Surjadeo Singh, Principal Beni Singh College Hata, P.S.- Chenari, District- Rohtas

2. Dr. Gauri Shankar Sinha @ Gauri Shankar Verma S/O Late Ash Nandan Prasad Verma, Head Of The Department Of Commerce, S.S. College, Takia, Sasaram, District- Rohtas Resident Of Village- Santoshi Maa Path, Gali No. 9a, Gaurakshni, Sasaram, P.S.- Sasaram, District- Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar

2. Jai Krishna Tiwary S/O Late Dayanand Tiwary Resident Of Gram Kakegi, P.O.- Dumri, P.S.- Shivsagar, District- Rohtas

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 29-06-2015

The petitioners seek quashing of the order of cognizance dated 25.07.2012 passed by the Chief Judicial Magistrate, Rohtas Sasaram in Complaint Case No. 814 of 2011.

The case of the complainant is that he was the Assistant-cum-Cashier in Beni Singh College, Hata P.S Chenari Dist. Rohtas where the Petitioner no. 1 was the Principal and Petitioner No. 2 was the Representative-cum-Secretary. In course of their official duties they defalcated a sum of Rs. 12 lacs of the University.

It has been submitted on behalf of the petitioners that the petitioners were responsible office bearers of the college whereas the complainant was a cashier. On 04.05.2010 they had terminated services of the complainant for reasons of irregularities. About a year

later the present complaint has been instituted evidently on account of being aggrieved with the action taken against him by the petitioners. They further submitted that University Accounts are subject to audit and at no point in time there was such a charge against them by the auditors.

On the other hand counsel for the complainant submits that as is evident from Annexure 8 of the counter affidavit the petitioners had been restrained from withdrawing the fund of the University after 31.05.2010 despite which they withdrew about a sum of Rs. 18 lacs and hence they should be put on trial.

Having gone through the facts of the complaint petition, I find that there is no dispute with regard to action which has been taken against the complainant by the University before institution of the complaint. Also the Audit report of the relevant period does not reveal any charge of defalcation. In view of such the application is allowed and the order of cognizance dated 25.07.2012 passed by the Chief Judicial Magistrate, Rohtas Sasaram in Complaint Case No. 814 of 2011 is hereby set aside.

However, this order shall not prejudice any party in any manner.

(Anjana Prakash, J)

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