

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.860 of 2014

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1. Dev Kant Diwakar Son of Late Phulchand Rai Resident of Village/
Mohalla - Patel Nagar, P.S. - Shastri Nagar, Patna, District- Patna
..... Petitioner

Versus

1. The State of Bihar
..... Respondent

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Appearance :

For the Petitioner : M/S Udai Bhanu Rai & Anant Kumar, Advs.
For the Respondent : Mr. Renuka Ratnakar (App)

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

8 01-07-2015

Heard the learned counsel for the petitioner
and the State.

This is a petition for quashing the first information report. The allegation made that the appointments of one particular caste and relatives of employees of the Municipality were made illegally from the list of the selected candidates and during the enquiry when the record was called for, it appeared that the record has been misplaced and missing of the record was found to be a criminal offence. A direction was issued for taking action against the persons responsible. It has, further, been alleged that at the instance of Dev Kant Diwakar, the Head Clerk, Bhopal Pandit and Ram Kumar Rai, Junior Engineer, have misplaced the record, hence, irregularity in the appointment as well as misplacing of the document were alleged to be found.

The learned counsel for the petitioner, however, submits that the matter concerned with the appointment of the employee in the Munger Municipality. However, so far the missing of the records is concerned, it is apparent that those records have been misplaced after their leaving the office and there are materials on record to suggest

that the record were present till they were in the service. However, it may be the defence. It is well settled principle that the first information report can be quashed only on the ground that allegation does not make out an offence or there is malafide or the allegation is manifestly absurd and improbable. It is apparent that the case has been filed regarding the missing of the record from the custody of the petitioner.

Hence, taking into consideration, there is specific allegation that the appointments were made illegally and during the enquiry the records were misplaced and got lost and concealed and so the missing of the records were found to be criminal offence and so the first information report lodged. Hence, once the allegation made makes out an offence, then, the police have got a statutory right to investigate a cognizable offence. The submission that offence alleged does not make out an offence is without any basis. The, further, submission that it is malafide and ornamentally absurd or inherently improbable does not satisfy the judicial conscience as when the case is being investigated by police, an independent agency, the question of malafide is absurd nor there is any merit in submission on that allegation is improbable or absurd. More over, the fact that the police after investigation submitted the charge sheet, hence, I do not find any merit in the petition.

This petition is accordingly, **dismissed**.

(Gopal Prasad, J)

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