

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.29669 of 2012

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Sanjay Kumar Singh, Son of Sri Diwakar Prasad Singh, resident of
Mohalla-Shastri Nagar (West) Near Mahadev Mandir, Police Station- K.
Hat, Madhubani, District- Purnea.

.... Petitioner.

Versus

1. The State of Bihar.
2. The Executive Engineer, Tube Well Division, Patna (West), Bihta,
District- Patna.

.... Opposite Parties.

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Appearance :

For the Petitioner : Mr. Ram Das Singh, Advocate.
For the State : Mr. J.Upadhyay, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD
ORAL ORDER

7 11-02-2015 Heard learned counsel for the petitioner and learned
counsel for the State.

This is a petition for quashing the order dated 09.09.2011
passed by the Additional Chief Judicial Magistrate, Danapur, in
Maner P.S. Case No. 173 of 2002 by which cognizance has been
taken for offences punishable under Sections 408, 420 and 34 of
the Indian Penal Code.

The prosecution case as alleged that work with regard to
modernization of pump house, construction of outlet etc. was
allotted in pursuance of the Agreement No. 3F-2/99-2000 and
entire amount worth Rs. 8,98,829/- was paid. On enquiry it was
found that 28 numbers of Alfa-Alfa Valve and 4 numbers of
outlets have not been constructed but according to the



Measurement Book, the entire work has been shown to be completed as per the agreement whereas on spot verification the work was not found to be done. The then Junior Engineer has done wrong measurement and money has been withdrawn for which he is responsible. It has also been alleged that petitioner has also indulged in paying 5% keep back amount as security money to the contractor.

On the allegation, F.I.R. was lodged and police after investigation submitted charge sheet on which cognizance has been taken.

Learned counsel for the petitioner submits that there is nothing specific against the petitioner in the case diary. It is further submitted that entire amount has already been paid by the Junior Engineer.

Having regard to the facts and circumstances of the case, there is specific allegation in the F.I.R. making out a prima facie case and police after investigation submitted charge sheet. The submission that there is no sufficient material against the petitioner is not acceptable and no roving enquiry and appreciation of evidence acceptable at this stage.

Hence I do not find any reason to interfere with the order taking cognizance by the trial court. However, the petitioner may

raise issue at the stage of framing of the charge and if petition shall file for discharge then trial court shall consider the petition.

Hence with the above observation, the petition is disposed of.

m.p.

(Gopal Prasad, J)

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