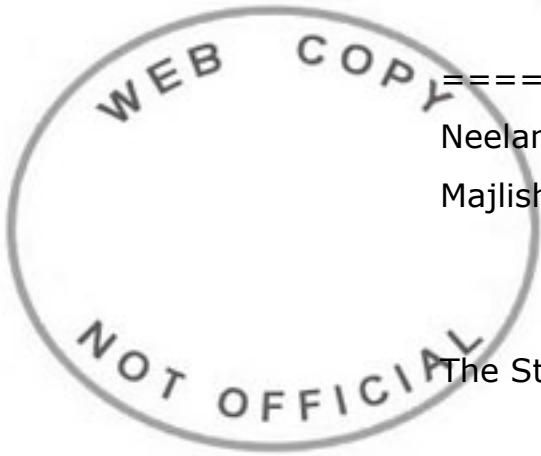




IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27245 of 2013

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Neelam Kumari, W/o Vinay Prasad Singh, R/o Village -
Majlishpur, P.S. - Vidupur, District - Vaishali.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs. Rina Sinha, Advocate
Mrs. Shruti Sinha, Advocate

For the Opposite Party/s : Mr. G. S. Gupta (A.P.P.)

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

5 18-03-2016 Heard the parties.

This application has been filed, seeking quashing of the First Information Report of Bhagwanpur P.S. Case No.24 of 2013, registered for the offences punishable under Sections 409, 420, 468 and 471 of the Indian Penal Code, in which the petitioner has been named as an accused.

Sole ground on which the quashing of the said First Information Report is being sought for is that for the same transaction, which is the subject



matter of the present First Information Report, earlier a First Information Report was instituted by the petitioner against accused, namely, Ramadhar Rai, giving rise to Bhagwanpur P.S. Case No.9 of 2011, registered on 09.01.2011. The petitioner had instituted the said First Information Report in the light of a direction issued by the District Superintendent of Education-Cum-District Programme Coordinator, Bihar Education Project, Vaishali. The previous First Information Report also related to misappropriation of a sum of Rs.1,12,000/-, which was released by B.E.P. (Bihar Education Project) for construction of a boundary wall around Primary School, Sathiauta (Purvi Tola), in the district of Vaishali. Upon completion of investigation, on the basis of the said First Information Report, the police are said to have submitted charge-sheet way back on 30.06.2011.

It appears on perusal of the First Information Report of the present case, i.e., Bhagwanpur P.S. Case No.24 of 2013, filed on 09.02.2013, that misappropriation of the same amount of Rs.1,12,000/- has been alleged. This First Information Report has been instituted on the basis of inspection report, submitted by the District

Programme Officer (Accounts & Planning), Vaishali.

Learned counsel for the petitioner, in the background of the facts, as noted above, submits that it was impermissible under the law to institute second First Information Report for the same transaction. She has placed reliance on a decision of this Court, in case of ***Radhakant Lal Das Vs. State of Bihar***, reported in **2012 (2) BLJ 2015**.

A supplementary affidavit has been filed on behalf of the petitioner in Court, bringing on record a communication, dated 23.01.2013, made by the District Programme Officer (Establishment), Vaishali, addressed to the Block Education Officer, Lalganj, Vaishali, asking to institute a First Information Report against the petitioner, enclosing the copy of the inspection report of the then District Programme Officer (Accounts & Planning), Vaishali, dated 10.10.2012.

The said communication, dated 23.01.2013, and the inspection report, dated 10.10.2012, are the basis for the institution of the present First Information Report.

I have perused the two First Information Reports, i.e., Bhagwanpur P.S. Case No.9 of 2011,



registered on 09.01.2011, and Bhagwanpur P.S. Case No.24 of 2013 (the present one), registered on 09.02.2013. I have no hesitation in coming to the conclusion that both the First Information Reports relate to same transaction, in connection with the same offence, relating to same incident.

In such circumstance, learned counsel for the petitioner is right in her contention, while placing reliance on a decision of this Court, in case of **Radhakant Lal Das** (supra), that second First Information Report could not have been instituted for same transaction. It goes without saying that on the basis of any material, coming forth subsequently, the conduct of the petitioner could be investigated into but the same could have been done by the police in exercise of power of further investigation, as contained in Section 173 (8) of the Code of Criminal Procedure, but not by filing a separate First Information Report.

This application is, accordingly, allowed. The proceedings, arising out of Bhagwanpur P.S. Case No.24 of 2013, stand quashed.

It is, however, made clear that the police shall be at liberty to take resort to further

investigation, in terms of Section 173 (8) of the Code of Criminal Procedure, on the basis of any material available to the police.

With this observation, this application is allowed.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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