

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2246 of 2015

Arising Out of PS.Case No. -148 Year- 2010 Thana -NASRIGANJ District- SASARAM (ROHTAS)

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1. Brij Kishore Thakur S/o Late Banshi Thakur Resident of Village Dehari, P.S. Karakat (Gorari), District Rohtas.

.... Petitioner

Versus

1. The State of Bihar.
2. Manoj Kumar S/o Heera Lal Singh Resident of Village Kapasiya, P.S. Rapur, District Rohtas.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Raghunandan Kumar Singh, Advocate
For the Opposite Party/s Mr. Sanjay Kr. Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 23-12-2016

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the State.

The petitioner has filed this petition for quashing the order dated 02.04.2014 passed in G.R. No. 1088 of 2010, corresponding to Tr. No. 961 of 2011, by which the learned Judicial Magistrate rejected the petition filed by the petitioner under Section 245 of the Cr. P. C. for his discharge.

The learned counsel for the petitioner submits that Manoj Kumar Singh filed a petition before the Superintendent of Police, Dehri, Rohtas on the basis of which Nasariganj (Rajpur) P.S. case No. 148 of 2010 was registered against Radha Krishna Singh, Headmaster



of Kapasiya school, Block Education Officer, Abdul Khalik, Brij Kishore Thakur, the coordinator. The informant alleged that Incharge Headmaster, Radha Krishna Singh, Block Education Officer, Abdul Khalik and coordinator, Brij Kishore Thakur, the petitioner, conspired with each other and filed forged utilization certificate and defalcated huge amount of school fund. The police after investigation submitted charge sheet. Cognizance was taken and thereafter the petitioner filed the petition for his discharge on the ground that there is no material against the petitioner to frame charge against him.

The learned counsel for the petitioner submits that the order dated 02.04.2014 is cryptic as it does not give any reason. The petition of the petitioner filed under Section 245 of the Cr. P. C. is dismissed only on the ground that since the learned S.D.J.M. has taken cognizance, therefore, there is sufficient material to frame charge against the petitioner.

The learned Additional Public Prosecutor, however, could not be able to support the order as the order does not speak about any material collected during the course of investigation against the petitioner to frame charge.

On this ground alone that the order is cryptic and does not give any reason, I am of the view that the order is not sustainable. Accordingly, the order dated 02.04.2014, so far petitioner is



concerned, is set aside and the matter is remitted to the court of the learned Judicial Magistrate-cum-Additional Munsif-5, Bikramganj, Rohtas to pass afresh order on the petition filed by the petitioner under Section 245 of the Cr. P. C. in accordance with law.

This quashing petition is, accordingly, allowed.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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