

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4607 of 2016

Arising Out of PS.Case No. -85 Year- 2015 Thana -BARSOI District- KATIHAR

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1. Manager Ram, S/o Tulsi Ram, Resident of Village- Rampurwa Chapariya Tola, P.S. Mainatand, District- West Champaran and the then Junior Engineer, Public Health Engineering Department, Section Barsoai, District- Katihar at present posted in Public Health Division, Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bishnu Kant Dubey

For the Opposite Party/s : Mr. L.K. Sharma (App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 22-04-2016 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

Petitioner is apprehending arrest in connection with Barsoai P.S. Case No. 85 of 2015, registered for offences punishable under Sections 420, 409, 467, 468, 471 and 120(b) of the Indian Penal Code.

Case diary has been received.

Learned counsel for the petitioner submits that he is a Junior Engineer in the PHed Department and has been allegedly drawn into the present controversy with regard to the construction of toilets. It is alleged that he had certified the construction of around 499 toilet made by one NGO namely Shiva Sena Sansthan

while he was functioning as Junior Engineer under Block Barsoai Panchayat Basgaon.

It is further submitted that the petitioner has been unnecessarily drawn into the present controversy as the toilets which were constructed by the NGO are under the scheme floated by the Government of India known as the total sanitation scheme (Sumpurna Swachata Abhiyan).

Referring to Annexure-2 which is the scheme learned counsel for the petitioner submits that the payments which were to be made for the implementation of the scheme by the NGO was to be certified by the concerned production centre and sanitation committee, which had been constituted at the said village level production centre.

Learned counsel for the petitioner further submits that he has neither certified any such constructions nor is he authorized to do so as any payments made to the person who had constructed such toilet were to be made to them under instructions contained in clause 11 of the aforementioned scheme. The petitioner has submitted that the procedure for making payment has been described well in the said clause and as per the aforementioned clause the Junior Engineer of the Block has no role to play in certifying the construction of, or completion of such

toilets.

Learned counsel appearing on behalf of the State after referring to several paragraphs of the case diary submits that factual inquiry was conducted by the prosecution in which it was found that the petitioner had certified the construction though the same had been executed by the NGO resulting in payment to them, which was totally illegal.

Be that as it may, the petitioner is a Junior Engineer who is functioning and performing his duties in his department. The controversy as to whether he was required to certify or has in fact certified can well be determined in the court below. So far as the payments made under scheme are concerned the clause 11 clearly indicates that the petitioner had no role to play in payments made for implementation of the scheme of preparation of toilet in the village under the centre based schemes.

As such the petitioner being responsible Government servant and being currently in office let the petitioner in the event of his arrest/surrender within 4 weeks be released on bail on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Katihar in connection with Barsoai P.S. Case No. 85 of 2015.

It is further directed that the petitioner shall at material times present himself before the prosecution and investigating agency for furthering its investigation and shall not absent or deny the prosecution in arriving at its logical conclusion. The petitioner shall also present himself before the court below at all relevant time is required. It is further directed that one of the bailors of the petitioner shall be a close relative preferably his father/mother/brother/wife.

(Anjana Mishra, J)

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