

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23179 of 2016

Arising Out of PS.Case No. -87 Year- 2010 Thana -CHANDI District- NALANDA
(BIHARSHARIFF)

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Surendra Prasad, S/o late Mahavir Prasad, Resident of Mohalla- Ranighat,
P.S.- Sultanganj, District- Patna Petitioner

Versus

The State of Bihar

..... Opposite Party

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with

Criminal Miscellaneous No.24114 of 2016

Arising Out of PS.Case No. -87 Year- 2010 Thana -CHANDI District- NALANDA
(BIHARSHARIFF)

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Mujataba Husain Farhat @ Mustafa Hussain Farhat, Son of Md. Murtaza
Husain, Resident of Village- Salempur, P.S.- Kinjar, District- Arwal
..... Petitioner

Versus

The State of Bihar

..... Opposite Party

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Appearance :

(In Cr.Misc. No.23179 of 2016)

For the Petitioner : Md. Naseem Mukhtar, Advocate

For the Opposite Party : Mr. Umesh Lal Verma (APP)

(In Cr.Misc. No.24114 of 2016)

For the Petitioner : Mr. Ajay Kumar Thakur, Adv.

Ms. Babita Kumari, Advocate

For the Opposite Party : Mr. Umesh Lal Verma (APP)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

8 23-11-2016 Heard learned counsel for the petitioner, namely,

Surendra Prasad in Cr. Misc. No. 23179 of 2016 and learned

counsel appearing on behalf of the petitioner, namely, Mujataba

Husain Farhat @ Mustafa Hussain Farhat in Cr. Misc. No. 24114

of 2016 and learned counsel appearing on behalf of the State.

The petitioners in the aforementioned two
applications are apprehending their arrest in connection with



Chandi P.S. Case No. 87 of 2010 registered for the offences punishable under Sections 419, 420 and 406/34 of the Indian Penal Code.

Learned counsel for the petitioners submits that the present petitioners were the Senior Audit Officer and District Audit Officer in the Department of Co-operative, Government of Bihar, who had been assigned the duty of conducting audit operations of Primary Agriculture Co-operative Society (hereinafter referred to as PACS) in the district of Nalanda. It was submitted that in the year 2008, the Government of India had decided to waive the agriculture loans which was being distributed by the PACS from their own resources. It is alleged that several irregularities were conducted in the waiving of such loans but, by means of letter and instructions issued in the year 2008 itself, the petitioners had been assigned the duty of conducting audit operations of determining such allegations and/or wrong acts committed in waiving such loans. Petitioner in the first case, namely, Surendra Prasad conducted the said audit and submitted a report to the petitioner, in the second case, namely, Md. Mujataba Husain Farhat @ Mustafa Hussain Farhat, who after duly recommending the audit report by the petitioner Surendra Prasad, forwarded the report to the Co-operative Department. Accordingly, after consideration of the said



report, the FIR was lodged in connection with the present case vide his letter No.109 dated 17.04.2010. It is further submitted that the Assistant Registrar, Co-operative Society, Hilsa, Anchal-Hilsa at Nalanda has lodged the present FIR after referring in detail to the report of the present petitioners. However, subsequently in the year 2016, the present petitioners have been dragged into the present case after six years of filing of the aforementioned FIR. It is further submitted by learned counsel for the petitioners, that the allegations against these petitioners are that the audit conducted by them was not according to the guidelines for conducting inspection and audit and that these officers had misused the position and submitted a report whereas certain periods for which audit was required to be conducted was not addressed by them. It is further submitted by learned counsel for the petitioners that in the year 1997 to 1999 the petitioners had not been posted there and, therefore, they were not in a position to conduct the audit beyond the period of their posting in the concerned district. In support of the petitioners' contention, a supplementary affidavit has been brought on record annexing the order by which the petitioner, namely, Surendra Prasad has been directed to conduct the audit for only Chandi- Nagarnausa PACS and Akair. The said letter has been marked Annexure-3 and has been issued from the



office of the District Audit Officer, Co-operative Society, Nalanda, as such, the petitioner cannot be held liable for the audit conducted with regard to other PACS.

Having heard learned counsels for the petitioners and learned counsel for the State in both the cases, it appears that the petitioner, namely, Surendra Prasad had a limited role to play in conduct of the audit of the entire district. His role was confined only to Chandi –Nagarnausa PACS and Akair. Thus, he submits that with regard to other PACS, the responsibility of having conducted the audit in violation of the directions could not be saddled on his shoulders.

So far as the petitioner, in Cr. Misc. No. 24114 of 2016 is concerned, learned counsel appearing on behalf of the petitioner submits that he was merely a forwarding authority to the Co-operative Society and his recommendation is based only on the reports forwarded to him by the other auditors and he has no individual role to play in the same.

In view of the aforementioned facts and circumstances of the case, it is directed that the petitioners, namely, Surendra Prasad in Cr. Misc. No.23179 of 2016 and petitioner, namely, Mujataba Husain Farhat @ Mustafa Hussain Farhat in Cr. Misc. No.24114 of 2016, in the event of their arrest



or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of Sri Ajay Kumar Mal, Judicial Magistrate-1st Class, Hilsa (Nalanda)/ Addl. Chief Judicial Magistrate-1st Class, Nalanda in connection with Chandi P.S. Case No.87 of 2010, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

It is made clear that the petitioners shall appear in the court below after submission of the charge sheet to collect the police paper, so that the trial of the present case is not delayed unnecessary. It is also made clear that one of the bailors of the petitioners shall be a blood relative who would also keep the court apprised of the place of postings of the respective petitioners as and when required. It is also directed that the petitioners shall not use any dilatory tactics and they will not interfere in the investigation and will co-operate in the same at all stages.

(Anjana Mishra, J.)

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