

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.49360 of 2013**

Arising Out of PS.Case No. -380 Year- 1992 Thana -BANKA District- BANKA

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Moti Sah S/o Shri Mohan Sah The Then Junior Engineer Banka Block, P.S. Banka, District- Banka, At Present Posted In Road Construction Department, Dumka, P.S. Dumka District Dumka (Jharkhand)

.... .... Petitioner/s

Versus

The State Of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Pravin Kumar Sinha

For the Opposite Party/s : Mr. Nityanand Tiwary(App)

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**CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR**  
**ORAL ORDER**

5      26-07-2016                      Heard Sri Pramod Kumar, learned counsel, who was assisted by Sri Pravin Kumar Sinha, learned counsel for the petitioner and Sri Nityanand Tiwary, learned A.P.P.

The sole petitioner, who was at the relevant time Junior Engineer, has approached this court invoking its inherent jurisdiction under section 482 of the Code of Criminal Procedure with a prayer to quash an order dated 24.9.2013 passed by learned Sub Divisional Judicial Magistrate, Banka in connection with Banka P.S. Case No. 380 of 1992 corresponding to G.R. No. 1738 of 1992 registered for the offence under section 409/ 120(B) of the Indian Penal Code. By the said order petition filed for discharge on behalf of the petitioner has been rejected.

Learned counsel for the petitioner submits that there is



no material against the petitioner for framing of charge even then petition for discharge has been rejected without examining the material on record. It has been argued that in the F.I.R. there is only allegation that the Block Development Officer had appointed one Sri Tribhuwan Prasad Singh as executing agent and he had committed all misappropriations. There is no allegation against the petitioner .

Sri Tiwary, learned A.P.P., opposing the prayer submits that in the F.I.R. there is specific accusation against the petitioner. He submits that being Junior Engineer it was his duty to properly monitor the work even then he in connivance with the accused persons did not raise any objection and thereafter the accused persons conniving with each other had misappropriated Rs. 1,41,360/-. This amount i.e. Rs. 1,41,360/- was a huge amount in the year 1992. He further submits that in this case earlier case diary was called for which has been received. In the case diary also there is specific material against the petitioner.

Besides hearing I have perused the material available on record including the case diary. After going through the material on record the court is satisfied that the learned Magistrate while dismissing the petition had committed no error. Accordingly the petition stands dismissed.

In view of the fact that F.I.R. was lodged long back in the year 1992 while dismissing the present petition it is desirable to direct the court below to take immediate steps so that case may come to its logical end without unnecessary delay. While proceeding with the present case the learned court below is required to take up the matter at least twice in a week.

The petition with above observation stands dismissed.

Let a copy of this order be communicated to the court below forthwith.

**(Rakesh Kumar, J)**

Praful/-

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