

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4244 of 2016

Arising Out of PS.Case No. -69 Year- 2008 Thana -KATIHAR District- KATIHAR

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1. Anjit Kumar S/o Thakur Ramashish Prasad
 2. Ranjit Kumar S/o Thakur Ramashish Prasad
 3. Thakur Ramashish Prasad, S/o Late Raghuvir Thakur, All are resident of Village- Balamichak, P.O.- Anishbad, P.S.- Phulwarisharif, Distt- Patna
 4. Jevendra Kumar @ Jibindra Kumar @ Devendra Kumar, S/o Sri Bhairav Thakur, R/v- Lodipur, P.O.- Sarwarpur, P.S.- Mehendiya, Distt- Arwal.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha

For the Opposite Party/s : Mr. Sanjay Kr.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 06-09-2016

Heard learned counsel for the petitioners and learned counsel for the State.

In this case, petitioners are challenging the order dated 23.08.2012 passed in G.R. No. 514 of 2008 for offences under sections 406, 420, 467, 468, 120B of the Indian Penal Code.

The informant-cum-complainant filed Complaint Case No. 251 of 2008 in which the petitioners have been made accused. It has been stated in nut shell that petitioners will manage the job for the complainant, subject to payment of amount. In pursuance thereof, certain payments were made but the commitment, which was extended to the complainant, was not honoured.

The counsel for the petitioners submits that in the

complaint case as well as in the statement does not indicate the involvement of these petitioners and so much so that the complainant himself has committed fault in giving the money for the purposes of obtaining a job and as such, the principle of peri delicto will apply.

So far the criminal case is concerned, the principle of peri delicto does not apply, in such situation, when young person moving around for job, receives an assurance for job subject to payment, the principle of peri delicto does apply in case of contract not in a case having intention of cheating and misappropriation. These petitioners enticed the complainant for job and extracted money from him. This Court is of the view, in such cases, when the money has been taken with intention of commission of offence in the name of providing a job, it cannot be said that the informant of the complaint would be non-suited. It is very a serious matter with regard to giving such assurance and getting the money.

Merely because the petitioner has been granted bail which cannot be a binding factor either in the trial or in deciding the discharge application. It is basically a commission of offence and all the issues will be decided by the trial Court.

This Court does not find any error in the impugned order. Accordingly, this petition is dismissed.

(Shivaji Pandey, J)

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