

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No. 37197 of 2015

Arising out of P. S. Case No. - 267 Year - 2013 Thana - DARBHANGA COMPLAINT CASE District - DARBHANGA

Gagan Deb Jha, Son of Late Jageshwar Jha, Resident of Mohalla - R.S. Tank,
Police Station - Bahadurpur, District - Darbhanga

.... Petitioner

Versus

1. The State of Bihar.
2. Smt. Debkala Devi, Wife of Late Ratneshwar Jha
3. Mukesh Jha, Son of Late Ratneshwar Jha
4. Shatrughan Jha, Son of Late Ratneshwar Jha, Opposite Parties No. 2 to 4 are Residents of Mohalla - Babu Saheb Colony, Office of Sugarcane Department, Village - Kabilpur, House of Binod Jha, Police Station - Bahadurpur, District - Darbhanga

.... Opposite Parties

Appearance :

For the Petitioner : Mr.

For the Opposite Parties : Mr.

CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

Date: 06-05-2016

Heard.

This is a petition for quashing the order dated 02.04.2015 passed by the learned Sessions Judge, Darbhanga, Bihar in Cr. Revision No. 511 of 2014 by which he has affirmed the order dated 12.09.2014 passed by the learned Judicial Magistrate-1st Class, Darbhanga in C.R. No. 267 of 2013 by which he has dismissed the complaint filed by the petitioner under Section 203 of the Cr.P.C.

The prosecution case as alleged in the complaint petition is that the five persons including the complainant-petitioner gave Rs.5,00,000/- to the accused person for securing the government service, but the appointment has not been provided and in this manner

cheated the complainant and others.

The complainant and two witnesses were examined and they supported the prosecution case in the complaint.

The learned Magistrate taking into consideration the statement of the complainant and the two witnesses on solemn affirmation held that the act alleged itself is an illegal act and the complainant took recourse of law for an illegal act in which the complainant himself a party giving the bribe and hence, dismissed the complaint under Section 203 of the Cr.P.C. The said order has been challenged by the complainant in Revisional Court and the Revisional Court has also affirmed the order dismissing the complaint.

The learned counsel for the petitioner, however, challenged the order on the ground that though there are eight witnesses mentioned in the complaint petition, but the impugned order was passed without exhausting all the eight witnesses mentioned in the complaint and the order has been passed merely on the solemn affirmation of the complainant and the two witnesses.

I do not find any force in the argument when the complaint itself has been filed alleging therein that money has been paid to secure the public appointment on a government post by way of bribe and complainant himself is a party to an illegal act and hence, he cannot take the recourse of law by filing the complaint for taking

action against the accused as no complaint is entertainable to take recourse for an illegal act of the complainant.

Hence, I do not find any merit in the petition and the same is, accordingly, dismissed.

(Gopal Prasad, J)

Kundan

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