

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47191 of 2013

=====

1. Jai Prakash Yadav S/O Sri Kameshwar Yadav
2. Satyendra Prakash Singh S/O Sri Braj Kishore Singh
Both are Presently Residing At Bhagalpur Zila Khadi Gramodyog Sangh,
Head Office- Laxmi Narayan Bhawan, Naya Bazar, P.S.- (Kotwali),
Tatarpur, District- Bhagalpur.

.... Petitioner/s

Versus

1. The State Of Bihar
2. Enforcement Officer, Employees Provident Fund Organization, Sub
Regional Office: Adampur Chowk, Bhagalpur through the Regional
Provident Fund Commissioner, Employees President Fund Organization
Regional office, R. Block, Road No. 6 Patna 800001 .

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Sunil Kumar
For the Opposite Party/s : Mr. Md.Arif(App)
Mr. Rajeev Kumar Verma
Mr. Prashant Sinha

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7 15-09-2016 Heard Sri Sunil Kumar, learned counsel for the

petitioners, Mr. Md. Arif , learned Additional Public Prosecutor

as well as Sri Rajeev Kumar Verma, learned senior counsel, who

was assisted by Sri Prashant Sinha, learned counsel for the

opposite party no. 2 / Enforcement Officer, Employees Provident

Fund Organization.

Two petitioners, have approached this court invoking
its inherent jurisdiction under section 482 of the Code of
Criminal Procedure, 1973 with a prayer to quash an order dated
11.12.2012 passed by learned Judicial Magistrate 1st Class,

Bhagalpur in Kotwali (Tatarpur) P.S. Case No. 118 of 2010, G.R. No. 486 of 2010. By the said order petition filed on behalf of the petitioners under section 239 of the Cr.P.C. for their discharge has been rejected.

Learned counsel for the petitioners submits that during the period the Organization i.e. Bhagalpur Zila Khadi Gramaodyog Sangh was running in financial crunch and there was no question for any deduction from the salary of the employees, only on paper transaction was shown and deduction was also shown. However, learned senior counsel for the Employees Provident Fund Organization by way of referring to the F.I.R. and materials available on record submits that it is a case in which there is allegation that petitioners who were Chairman and Secretary of the Bhagalpur Zila Khadi Gramodyog Sangh had deducted about Rs. 63000/- and odd from the salary of the employees in the name of provident fund but the said amount was never deposited in the account and as such F.I.R. was lodged and during investigation allegation was found true and charge sheet was submitted.

Besides hearing learned counsel for the parties I have also perused the materials available on record. From the impugned order it is evident that police submitted charge sheet and

thereafter cognizance order was passed. At the stage of charge discharge petition was filed. A plea was taken that subsequently the deducted amount was already deposited and as such if for the time being stand taken by the petitioners is accepted as correct that deducted amount has been deposited, it can be a case of temporary embezzlement and as such, at least at this stage petitioners may not be discharged. Moreover, in the impugned order I do not find any apparent error warranting interference.

The petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

U		T	
---	--	---	--