

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45365 of 2013

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1. Reverent Swapan Rozario S/O Late Izek Rozario the Secretary Bishop Rocky High School, Gomoh, Dhanbad, P.S- Gomoh, District- Dhanbad.
 2. Reverent Kamalaksha Sardar S/O Late Paspu Lukar Sardar Bishop Rocky High School, Gomoh, Dhanbad, P.S- Gomoh, District- Dhanbad., At Present Resident of Thoburn Memorial Methodist Church 151 Lenin Sarani, P.S-Baw Bazar, Kolkata- 7000013, Permanent Resident of Malyapur, P.O-Kundarali, P.S- Baruipur, District- 24 Pargana (South), West Bengal.

.... Petitioner/s

Versus

1. The State Of Bihar
 2. Munna Sah S/O Bhuneshwar Sah R/M Chhoti Keshopur, P.S- Jamalpur, District- Munger.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Smt. Sudha Ambastha
 For the Opposite Party/s Mr. Ram Naresh Roy(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

08/ 23.05.2017 Heard learned counsel for the petitioners as well as learned Addl. Public Prosecutor for the State. No one appears on behalf of the opposite party no.2 though notices have already been served upon him personally.

Petitioners have prayed for quashing the order dated 25.04.2012 passed by Sri Sukul Ram, Judicial Magistrate, Ist Class, Munger in Complaint Case no. 754C/2011 by which and whereunder he issued process to the petitioners under section 204 of the Cr.P.C for facing trial for the offences punishable under sections 341, 323, 379, 417 and 506 of the Indian Penal Code.

Opposite party no.2 filed Complaint Case no. 754C/2011 against the petitioners and some unknown persons on the accusation



that one vacancy of English teacher of minority school was published on 08.10.2010 in the daily newspaper, namely Hindustan and accordingly, he applied for the aforesaid post on 25.08.2010 by putting his application into the box kept in the concerned school. Thereafter, a list was prepared and his name appeared at serial no.2 in the aforesaid list and he met petitioners and other officials, they assured him for interview. However, on 22.01.2011 when he met the petitioners, petitioners demanded Rs. 50,000/-. He further claimed that he gave Rs. 20,000/ to the petitioners on 27.3.2011 but he did not get job and when he demanded his money back, he was not only assaulted but also petitioners snatched Rs. 500/- from him.

The learned court below, having conducted an enquiry, found prima facie case against the petitioners and accordingly, passed the impugned order which is under challenge before this court.

Learned counsel appearing for the petitioners submits that no doubt, an advertisement for appointment of English teacher was published in the daily newspaper but the application was invited through post only on or before 25.10.2010 and, therefore, the fact of putting application in box kept at the concerned school is palpably false and incorrect. Learned counsel for the petitioners further submits that governing body of the aforesaid school subsequently, cancelled the advertisement and again, with the permission of the District Education officer, Dhanbad process of the appointment was made and some other persons were appointed on different posts in the aforesaid school. Learned counsel for the petitioners next submits that the aforesaid facts are evident from perusal of annexures 2, 3 and 4



respectively.

Learned counsel for the petitioners further submits that, as a matter of fact, opposite party no.2 has filed the above stated complaint case with mala fide intention just to put pressure upon petitioners and other officials of the concerned school for getting appointment in the said school and, therefore, continuance of the aforesaid complaint case is nothing but only an abuse of the process of the court.

The learned trial court has reported that the aforesaid complaint case is still pending for recording the evidence before charge.

Considering the facts and circumstances of the case as well as submissions of the parties, I am of the opinion that the present complaint case has been filed by opposite party no. 2 with oblique motive to harass the petitioners. It is well settled that the court can exercise the inherent power available under section 482 of the Cr.P.C to prevent the judicial process from being an instrument of oppression or harassment in hands of frustrated or vindictive litigants so that judicial forum of court may not be allowed to be utilized for any oblique motive. Therefore, in the aforesaid circumstances, this court has no option except to exercise its inherent power vested under section 482 of the Cr.P.C.

Accordingly, on the basis of the aforesaid discussions, this quashing petition is allowed and impugned order dated 25.4.2012 passed in Complaint Case no. 754C/2011 is, hereby, quashed.

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(Hemant Kumar Srivastava,J)

