

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.48538 of 2013

Arising Out of PS.Case No. -737 Year- 2013 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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1. Manoj Kumar Ashthana @ Ranjan Lal, S/O Late Narayan Ashthana, R/O
Village- Tarwa, P.S.- Manjhagarh, District- Gopalganj Petitioner

Versus

1. The State Of Bihar
2. Chandu Kumari, W/O Chandra Seth Prasad, R/O Village- Parsurampur, P.S.-
Manjhagarh, District- Gopalganj Opposite Parties

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Appearance :

For the Petitioner : Mr. Ranjeet Kumar Pandey, Adv.
For the State : Mr. Shyam Kumar Singh, APP 138

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 17-01-2017

Heard the learned counsel for the petitioner and the State.

2. No one appears on behalf of opposite party no. 2 though vakalatnama has been filed.

3. This is a petition for quashing the order, dated 27.06.2013, passed in Complaint Case No. 737 of 2013, by the Chief Judicial Magistrate, Gopalganj, whereby summons have been issued under Sections 420, 467, 468, 471 and 120B of the Indian Penal Code against the petitioner.

4. The complainant-opposite party no. 2, Chandu Kumari, was appointed as a Panchayat Teacher. Subsequently her appointment was cancelled on the ground that she had produced a forced experience certificate. The administrative decision of cancellation of appointment was affirmed by the District Teacher Employment Appellate Authority, Gopalganj, by order, dated 18.12.2012, vide Annexure 5. Thereafter, Complaint Case No. 737 of 2013 has been filed by opposite party no. 2 against the petitioner and others on 25.03.2013 with allegation that the petitioner and others committed forgery and created forged document just to ensure entry of Ritu Kumari in place of the complainant in the service of Panchayat Teachers. In the complaint case, aforesaid, cognizance has been taken by the impugned order, dated 27.06.2013, by the learned Court below for prima facie offence under Sections 420, 467, 468, 471 and 120B of the Indian Penal Code.

5. Submission of the petitioner is that there is no material on record to substantiate the allegation of forgery. More over, the



background of allegation would apparently reveal that the complaint petition was filed with vexatious and oppressive intention of the complainant, based on frivolous allegation.

6. The learned counsel for the State submits that once cognizance is taken, the matter is of stage trial to examine the nature of forgery alleged.

7. In the case of **Janta Dal Etc. Vrs. H.S. Choudhary & Ors., repored in AIR 1993 SC, 892** and in the case of **Dr. Raghubir Saran Vrs. State of Bihar & Anr., AIR 1964 SC, 1**, the Supreme Court held that in proceeding instituted on complaint the exercise of inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous vexatious or oppressive. The malafide of the complainant can also be looked into.

8. In the present case, there is no specific role assigned to the petitioner alleged to be instrumental in removal of the complainant rather the said removal proceeding was instituted on the basis of complaint of Rita Devi for the reason that Rita Devi was senior to the complainant, but, she had shorter experience. However, once the experience certificate of the complainant was found to be a forged document, the complainant was removed and Rita Devi occupied her position. The nature of the forgery allegedly committed by the petitioner and others is also not specifically stated in the complaint petition.

9. In the circumstances, it is evident that the prosecution of the petitioner was initiated with malafide intention of the complainant.

10. Hence, the same can not be allowed to continue for substantial justice. Accordingly, the impugned order is **set aside** and this application stands **allowed**.

(Birendra Kumar, J)

SA/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	23.01.2017
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