

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40292 of 2013

Arising Out of PS.Case No. -52 Year- 2011 Thana -RAJPUR District- BUXAR

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1. Sri Sheo Kumar Alias Sheo Kumar Son Of Baijnath Prasad, Headmaster,
Primary School, Saithu, Resident Of Village- Saithu, Police Station- Rajpur,
District- Buxar

2. Smt. Meena Devi @ Meena Devi Wife Of Sri Prabhakant Choubey
Secretary Of School Education Committee, Resident Of Village- Saithu,
Police Station- Rajpur, District- Buxar

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sada Nand Ray

For the Opposite Party/s : Mr. T.N.Thakur(App)

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**

ORAL ORDER

6 10-04-2017 This criminal miscellaneous has been filed for quashing

the order dated 11.07.2012 passed by learned C.J.M., Buxar in

Rajpur P.S. Case No. 52/11, G.R. No. 1066/11, Trial No. 2305 of

2011 whereby and whereunder cognizance was taken against the

petitioners for the offences under Sections 406, 409, 420 and 120-

B of the Indian Penal Code.

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

As per First Information Report Rs. 9,69,425/- was
transferred in the account of his school and he stated that in the
account of aforesaid school Rs. 1,79,791/- was left and Rs.



8,14,634/- were withdrawn by the accused persons and their intention is to defalcate the aforesaid amount. Construction of the building has not been completed and only halls have been constructed but the walls floor and window have not been plastered and sentry work was also completed.

Submission on behalf of petitioners is that in the First Information Report it has been stated that walls were constructed and sentry work was done and therefore, there was no occasion for plastering the wall, floor and window unless and until the sentry is removed. While the construction was going on, this case has been lodged though the entire work was finished and certificate was also obtained by the petitioner and no any amount lying with the petitioners vide annexure-2.

The petitioners were granted anticipatory bail by another Bench of this Hon'ble Court passed in Criminal Miscellaneous No. 8444 of 2012 vide order dated 21.03.2012 on the ground that the petitioners have completed the work and further the learned court below was directed to issue notice to the informant for verification of the work and to file completion and utilization certificate and accordingly, Block Development Officer, Rajpur appeared in the court and submitted utilization certificate stating therein that works have been completed and no



amount was due against the petitioners, which is evident from the order Sheet of the learned court below, dated 06.11.2012, vide annexure-4 and, as such, no case as stated is made out against the petitioners and continuation of the proceeding will be the abuse of process of Court and no purpose will be served by asking the petitioners to face trial.

Learned APP after going through annexures 2, 3 and 4 fairly submits that the petitioners have completed the work and now there is no due.

In the facts and circumstances stated above the proceeding will be the abuse of the process of the court and, as such, the order taking cognizance and the entire proceedings stands hereby quashed.

In the result, this criminal miscellaneous is hereby allowed.

(Jitendra Mohan Sharma, J)

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