

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.39471 of 2017

Arising Out of P.S.Case No. -89 Year- 2017 Thana -DHANSORI District- BUXAR

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Shashi Bhushan Pathak

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Dwivedy Surendra, Advocate

For the Opposite Party : Mr. Ram Bachan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

2 21-08-2017

Heard.

2. The petitioner apprehends arrest in connection with Dhansoi P.S.Case No.89 of 2017 pending in the Court of ACJM-III, Buxar registered for an offence under Section 417, 423 and 466/34 of the IPC.

3. It is alleged that one Rajesh Kumar Singh submitted a complaint case no.430110106121601682/1A under Public Grievance and Redressal Act before Divisional Commissioner. The Commissioner referred the matter to the District Magistrate who constituted four member committee to enquire into the matter. After enquiry the committee found the allegation of defalcation of government money and accordingly the present case was registered under Sections 417, 423 and 466/34 of the IPC.

4. Learned counsel for the petitioner submits that the



petitioner was the Junior Engineer in Rural Works Department and allegation against him is that he did not measure the work performed by contractor properly and thereby facilitated payment of huge amount towards the construction work. He further submits that the entire work of construction of road was carried out by Mukhiya of Gram Panchayat and Panchayat Secretary who have received payment on the basis of report of this petitioner. The petitioner was not responsible for any payment and he had rightly submitted report as regards measurement. The enquiry was not conducted in presence of the petitioner and so he cannot be prosecuted on the basis of vague report.

5. Learned APP opposed the submissions.

6. On perusal of annexures available on record, I find that the matter was enquired by a committee of four members duly constituted by the District Magistrate. The committee consisting of Deputy Collector Land Reform, Block Development Officer, Assistant Engineer and District Programme Officer, MANREGA examined the matter and submitted detailed report. In course of enquiry, it was found that PCC work with respect to scheme no.5/2013-14 was for the length of 339 feet. The total work on measurement was found to the tune of 4727.75 sq feet but this petitioner after measurement reported that the total work was done



for 5676 sq.feet. Thus, the committee found that this petitioner had not properly measured the work rather submitted report for an area more than the actually constructed work. The committee recommended to recover the excess payment of Rs.1,46,415/- from the Mukhiya and Panchayat Secretary. The petitioner was responsible for excess payment. The petitioner facilitated the Mukhiya and Panchayat Secretary in getting payment beyond actual constructed work.

7. Considering the allegation of defalcation of government money on the basis of wrong measurement of this petitioner, I am not inclined to grant him anticipatory bail. Accordingly, his prayer is rejected.

(Sanjay Kumar, J)

B.Kr./-

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