

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40014 of 2014

Arising Out of PS. Case No.-446 Year-2013 Thana- SARAN COMPLAINT CASE District-
Saran

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Babban Tiwari Son of Late Sheo Kumar Tiwari Resident of Village - Gosi Chapra, P.O. - Koreya, Police Station - Bheldi, District - Saran (Chapra), retired as In-charge head teacher, Middle School Garkha Board, Anchal Garkha, District - Saran (Chapra)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manoj Kumar Singh Son of Late Sureshwar Singh Resident of Village + P.O. + Police Station - Garkha, District - Saran (Chapra)

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Mishra, Adv
For the O.P. No. 2	:	Mr. Dhananjay Tiwary, Adv
For the State	:	Mr. PRAMOD KR.PANDAY(APP)

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 15-11-2017

Heard learned counsel for the parties.

The present petition has been filed under Section 482 of the Cr.P.C for quashing the order dated 18.11.2013, passed by the learned Judicial Magistrate, 1st Class, Saran at Chapra in Trial No. 3867 of 2014 arising out of Complaint Case No. 446 of 2013, by which cognizance under Sections 189, 353, 447 and 403 of the Indian Penal Code, has been taken against the petitioner.

Briefly stated, the facts of the case is that complainant-Opposite Party No. 2 Manoj Kumar singh, Incharge Headmaster of Middle School, Garkha Board at the



relevant time filed complaint case No. 446 of 2013 in the court of learned Chief Judicial Magistrate, Chapra, making petitioner as accused alleging that complainant is the Incharge Headmaster of Middle School, Garkha Board, and petitioner had retired on 31.01.2013 as Incharge Headmaster of Middle School, Garkha Board. As per the order of the senior officer, he had to hand over the charge of administration as well as finance till 31.01.2013, but intentionally he had given the charge of attendance of the students and not given rest of the charge to the complainant- Opposite Party No. 2.

It has been further alleged that complainant-Opposite Party No. 2 made a complaint to the Block Education officer, Garkha for providing the entire charge and the same was ordered but still complete charge of the school was not handed over to the complainant-Opposite Party No. 2. The accused-petitioner since 01.03.2013 regularly with 3 to 4 anti-social elements used to come for construction of the new school building and on being questioned assaulted the complainant. Complainant-Opposite Party No. 2 gave representation to the District Programme Officer, Saran, District Magistrate, Saran and the Block Education Officer, Garkha in writing and the Block Education Officer, Garkha again had ordered for



providing financial as well as administrative charge, but even thereafter accused-petitioner had withdrawn the cash for construction work of the school building and misappropriated the amount, as financial charge and other administrative charge are not being handed over by the accused-petitioner and complained that the entire scheme of Mid Day Meal and other welfare schemes had to be discontinued.

Learned counsel for the petitioner has submitted that complainant-Opposite Party No. 2, was not the senior most teacher, as such full charge could not be handed over to him. Subsequently Manoj Kumar Singh, was suspended by order dated 28.11.2011, due to denial for family survey under Sakshar Bharat Mission, 2012.

Due to lack of clear direction from the higher authorities the accused-petitioner had been given the charge of teachers attendance and register of the students and nine locks and keys and the same was received by the complainant-Opposite Party No. 2 on 31.01.2013. By order dated 05.02.2013 issued by the Block Education Officer, Garkha, complainant-Opposite Party No. 2 Manoj Kumar Singh, Assistant Teacher of Middle School has been made incharge of the School on denial of senior teacher, Parmanand Manjhi, Assadullah and Chandan



Kumari, and thereafter the accused-petitioner went to school for handing over the charge to the complainant-Opposite Party No. 2 on 15.02.2013, but he did not accept the charge from the petitioner and thereafter the petitioner again represented to Block Education Officer, Garkha, Saran on 23.02.2013 and instead of taking charge complainant-Opposite Party No. 2 has filed the present case on 25.02.2013.

The court below during course of inquiry issued letter dated 17.05.2013 to the District Programme Officer (Establishment), Chapra to sent a report with respect to present complaint case and the District Programme Officer (Establishment), Saran at Chapra issued letter dated 12.06.2013 to the learned Judicial Magistrate, 1st Class, that the petitioner had given entire charge of the School to the complainant-Opposite Party No. 2, and also about handing over the full charge to teacher Shri Nityanand Singh on 11.03.2013.

The court below examined the complainant on S.A and also three inquiry witness and by order dated 18.11.2013 took cognizance against the petitioner for the offence punishable under Sections 189, 353, 447 and 403 of the Indian Penal Code on the basis of materials available on record, and issued summons to the accused-petitioner for his appearance to face



the trial and this Court in its inherent jurisdiction is not inclined to interfere in the order passed by the court below at this stage, however, if any discharge petition is filed by the petitioner or at the time of framing of charge, the court below will consider the evidence collected during investigation against the petitioner in a judicious manner at the time of considering the discharge petition on behalf of the petitioner or framing of charge against the petitioner, if not already framed.

With the aforesaid observation and liberty, this petition is disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
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