

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45749 of 2016

Arising Out of PS.Case No. -154 Year- 2015 Thana -JAMALPUR District- MUNGER

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Md. Athar Perwez son of Late Md. Iftexhar Alam. resident of village- Shujawalpur,
Police Station- Mufassil, District- Munger.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Superintendent of Police, Vigilance Department, Government of Bihar,
Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jyoti Ranjan Jha, Advocate
For the Vigilance : Mr. Rakesh Kumar Sharma, Advocate
For the State : Mr. Murlidhar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 31-08-2017

Heard learned counsel for the petitioner, learned counsel for
the Vigilance and learned counsel for the State.

2. This application under Section 482 of the Code of
Criminal Procedure (for short 'the CrPC') has been filed for quashing
the order dated 19.03.2016 passed by the learned Additional Chief
Judicial Magistrate-II, Munger in connection with Jamalpur P.S. Case
No.154 of 2015 dated 22.12.2015 by which cognizance has been
taken for the offences punishable under Sections 420, 467, 468, 471
and 120B of the Indian Penal Code (for short 'the IPC').

3. In the First Information Report (for short 'the FIR'), it
has been alleged that the petitioner had obtained employment as a
teacher on the basis of forged and fabricated marks sheet. The
investigation of the case was handed over to the Vigilance under the



orders of this Court. In the light of the order passed by this Court, the Vigilance Investigation Bureau got the matter investigated. The investigating officer found the allegation made in the FIR against the petitioner to be true. Accordingly, the police report under Section 173(2) of the CrPC was submitted against the petitioner. On perusal of the allegation made in the FIR, statement of witnesses recorded under Section 161(3) of the CrPC and the substance of accusation recorded in the police report submitted under Section 173(2) of the CrPC, the learned Magistrate found a prima facie case to be made out against the petitioner and summoned him to face trial, vide order dated 19.03.2016, which is under challenge in the present case.

4. Learned counsel for the petitioner has submitted that it is not correct to allege that the marks sheet produced by the petitioner for appointment on the post of teacher was forged and fabricated. He has submitted that the alleged marks sheet was issued by the Tilka Manjhi University, Bhagalpur and no wrong was committed by the petitioner by producing the same for seeking employment.

5. On the contrary, learned counsel for the Vigilance has submitted that no illegality can be found with the order impugned whereby the learned ACJM has summoned the petitioner to face trial. He has submitted that it is not an appropriate stage to consider the defence of the petitioner and the probative value of defence taken by



him can only be considered during trial.

6. I have heard learned counsel for the parties and perused the record.

7. I find substance in the submissions made by the learned counsel for the Vigilance.

8. The allegations made in the FIR are direct and specific. In course of investigation, the culpability of the petitioner was found true. The petitioner is the beneficiary of the alleged fraud. On the basis of the materials available on record, the trial court has rightly found a prima facie case under the provisions of the IPC as mentioned in the FIR to be made out.

9. In that view of the mater, I see no merit in this application. It is dismissed accordingly.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
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