

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47583 of 2014

Arising Out of PS.Case No. -70 Year- 2013 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

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Sk. Wasi Ahmad @ Washi Ahmad son of Shekh Farman, resident of village-
Belash Pur, P.S.- Ramgarhwa, District- East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. SK. Gayasuddin Son of Late Ayub
3. SK. Ahamad Son of SK. Yakub both are resident of Village- Belash Pur, P.S.-
Ramgarhwa District East Champaran

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Vjay Shankar Srivastava, Advocate
For the Opposite Party/s : Mr. Aditya Nr. Singh-1, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 20-12-2017

Heard Shri Vijay Shankar Srivastava, learned counsel for the
petitioner.

The short facts of the case are that the petitioner herein had filed a
Complaint bearing Complaint Case No. 37 of 2012 inter alia stating therein that
he was running a Madarsa in village Belashpur, P.S. Ramgarhwa since the year
1987 and has also got an affiliation of Bihar Rajya Madarsa Board, however, the
proposed accused persons, who had become the Secretary and the President of the
said Madarsa, were subsequently removed by the Managing Committee,
whereafter the proposed accused namely Gayasuddin opened a new Madarsa
purported to be in the same name at that of the Madarsa being run by the
petitioner herein and also took away some documents. It was further alleged that
the petitioner filed a complaint before the Patna Madarsa Board, District
Education Officer and Sub-Divisional Education Officer, Raxaul. The learned



trial court in pursuance of the complaint case had directed the Police to register a case under Section 156(3) of the Cr.P.C. and an FIR vide Ramgarhwa P.S. Case No. 34 of the 2012 was registered. The police upon investigation found the case to be untrue and submitted a final form. The petitioner herein thereafter filed a protest petition and the same was treated as Complaint Case No. 70 of 2013. The learned trial court after perusal of the entire materials on record has vide order dated 29.08.2014 found the complaint case devoid of any merit and has therefore, dismissed the same.

The learned counsel for the petitioner has argued that neither in complaint nor in the evidence it has been disclosed that the petitioner has moved the Hon'ble High Court by filing a writ petition or that an appeal under Section 3 of the Bihar State Madarsa Board Control (Appeals) Rules, 1983 had been filed earlier but still the learned trial court by the impugned order has noted about the same and on the basis of the same has dismissed the complaint case. It is further submitted that at least a case of theft is made out since the proposed accused persons had taken away of the records of the Madarsa belonging to the petitioner.

I have perused the complaint as well as the evidence of the witnesses and the impugned order dated 29.08.2014 passed by the learned S.D.J.M., Raxaul at Motihari. I find that the Police, upon finding the case to be untrue had filed a final form whereupon the petitioner had filed a protest petition and then the learned trial court had registered the present complaint case, however, subsequently it also found the complaint to be devoid of any merit and fit to be dismissed.

From a bare perusal of the complaint petition, later on converted into FIR, it appears that the allegations levelled do not lead to commission of any cognizable offence. Further, the petitioner having already undertaken the



appropriate remedy of filing various complaints, as stated in paragraph-5 of the complaint at page-16 of the present petition, he could not have taken recourse to the present remedy and the same appears to be completely malicious in nature. However, for the reasons aforesaid, I do not find any perversity in the order dated 29.08.2014 passed by the learned S.D.J.M., Raxaul, so as to warrant any interference by this Court, hence, there is no merit in the present application. It is accordingly, dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

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