

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43277 of 2014

Arising Out of PS.Case No. -137 Year- 2010 Thana -BIRPUR District- SUPAUL

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Md. Samiullah, son of Late Md. Hasim, Resident of Birpur Ward No. 7,
P.S.- Birpur, District- Supaul.

.... Petitioner/s

Versus

1. State of Bihar
2. The B.E.O. (Prakhand Shiksha Padadhikari), Basantpur, District-
Supaul.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Singh, Advocate.

For the Opposite Party/s : Mr. Ajay Kuamr No. 1, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

2 31-08-2017 Heard learned counsel for the petitioner as well as the

State.

2. The petitioner seeks for setting aside the order dated
14.08.2014 passed by the Judicial Magistrate- 1st Class, Birpur in
Birpur P.S. Case No. 137 of 2010, whereby he has rejected the
application of petitioner filed to discharge him from the case.

3. The allegation, in brief, against the sole accused in
the FIR, is that for construction of school in which the petitioner
was Incharge Headmaster, Rs. 9,49,000/- was given to him in two
installments for construction of the building of the school.
Rs.1,45,000/- for construction of the boundary and Rs. 48,000/-
for construction of kitchen. He withdrew whole amount but only
half of the work was completed. The fund was released in the year



2008 and the case was lodged on 05.10.2010. The allegation is that the rest amount has been misappropriated by the petitioner.

4. Learned counsel appearing on behalf of the petitioner submits that he got the construction completed in the year 2012, so no offence is made out against the petitioner, whereas, learned counsel appearing on behalf of the State submits that he withdrew the whole amount initially in 2008 and misappropriated the money in his own interest and after two years of lodging the case, according to the petitioner, the work has been completed.

5. The petitioner has come against the order dated 14.08.2014, whereby, the trial court rejected his application filed for discharge at that stage. The court has to consider only the evidence collected during the investigation stage to satisfy whether sufficient ground for framing of charge exists or not. So considering material on record finding sufficient ground to frame charge, application of discharge was rejected.

6. So, this application stands dismissed.

(Arun Kumar, J)

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