

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.1216 of 2017

Arising Out of PS.Case No. -2866 Year- 2012 Thana -SARAN COMPLAINT CASE District-
SARAN

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Vijay Kumar Singh S/o Shri Umesh Singh R/o Village, & P.O. Manupur,
P.S. Dighwara, Distt Saran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Rajeshwar Singh S/o late Ram Chandra Singh R/o Village- Manupur,
P.S. Dighwara, Distt. Saran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Chandra Gandhi

For the Opposite Party/s : Mr. Sri Akhileshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

02/ 05-05-2017

Heard learned counsel for the petitioners and

Mr. J.N. Thakur, learned counsel for the State.

The present application has been filed for quashing the order dated 29.04.2016 passed in Criminal Revision No. 242 of 2014 by learned Additional Sessions Judge,VIIIth, Saran at Chapra as well as order dated 22.05.2014 passed by learned Chief Judicial Magistrate, Saran at Chapra in Complaint Case No. 2866 of 2012, whereby process has been directed to be issued after cognizance being taken for the offences punishable under Sections 465 and 471 of the Indian Penal Code and the said



order has been affirmed by learned Additional Sessions Judge, VIIIth, Saran at Chapra passed in Criminal Revision No. 242 of 2014.

The prosecution case is that the petitioner applied for being considered for engagement on the post of Nyaya Mitra in Manupur Gram Kutchery and furnished the copy of the certificates including the mark-sheet of LLB showing 1096 marks in aggregate whereas the petitioner also applied for the same post in Akbarpur Gram Kutchery annexing the mark-sheet of LLB showing 996 marks in aggregate.

It is submitted by learned counsel for the petitioner that the petitioner only applied in Akbarpur Gram Kutchery and he was engaged and worked there but he never applied in Manupur Gram Kutchery, hence, he cannot be held responsible for the submission of the alleged mark-sheet.

It appears that in complaint petition the accusation is specific and considering the accusation in complaint petition, S.A. of the complainant and the statement of three enquiry witnesses the learned CJM, Saran at Chapra found, prima facie, case and ordered for issuance of process and the said order has been affirmed by the learned Additional Sessions Judge, VIIIth, Saran at Chapra in Criminal



Revision No. 242 of 2014.

At the stage of exercising jurisdiction under Section 190(1)(a) Cr.P.C. the learned Magistrate has only to see a prima facie case. A useful reference may have to the case of Sonu Gupta Vs. Deepak Gupta & Ors., 2015(2) PLJR (SC) 321. Paragraph no. 7 reads as:-

“Having considered the details of allegations made in the complaint petition, the statement of the complainant on solemn affirmation as well as materials on which the appellant placed reliance which were called for by the learned Magistrate, the learned Magistrate, in our considered opinion, committed no error in summoning the accused persons. At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out whether prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor he is required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials will lead to conviction or not.”

In the circumstances, this Court is not



inclined to interfere at this stage. However, this application is disposed of with liberty to the petitioner to raise all the contentions at the appropriate stage of proceeding.

(Dinesh Kumar Singh, J)

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