

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51503 of 2014

Arising Out of PS.Case No. -723 Year- 2013 Thana -NALANDA COMPLAINT CASE District-
NALANDA (BIHARSHARIFF)

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1. Rajib Ranjan S/o Late Ram Saharam Prasad Singh R/o village - Khushalpur, P.S.
Ekangarsari, District - Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. Kumar Annal Vidharthi S/o Triveni Prasad Singh village - Saken - Parsurai, P.S.
Khodagal, District - Nalanda at present in charge Head Master, Khodaganj High
School, P.S. Khodaganj, District - Nalanda

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate
Mr. Sanjeev Mishra, Advocate
Ms. Priya, Advocate,
For the Opposite Party/s : Mr. Parmanand Prtasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 18-12-2017

Heard learned counsel for the petitioner and learned A.P.P. for the

State.

This application has been filed for quashing the order

dated 03.09.2014 passed by the learned Sub Divisional Judicial

Magistrate, Hilsa, Nalanda in Complaint case No. 723C/2013

by which the learned Magistrate after holding enquiry has found

prima-facie case against the petitioner for the offences

punishable under Sections 120 (B), 323, 420, 467, 468, 471,

472 and 504 of the Indian Penal Code.



The learned counsel for petitioner has submitted that there is dispute between the parties for post of Head Master in the School. There is no ingredient of criminal offence.

The learned counsel for Complainant has appeared and submitted that there is ingredient of criminal offence.

The allegation in the complaint petition is that the Complainant is a Senior teacher of Khodaganj High School and was In charge Head Master w.e.f. 01.06.2009 of the said school. He has been removed from the post of In charge, Head Master by then Regional Deputy Director of Education, Patna on the basis of allegation and accused No. 1 Md. Mustak Ahmad Ansari was made In charge, Head Master. He filed an application before the Director of Secondary Education on which enquiry was constituted and on enquiry, the allegation against the complainant was not found correct and as such his suspension was revoked by letter dated 16.05.2012. On the basis of the order of the Director, Secondary Education, the District Education Officer, Nalanda by letter dated 09.02.2013 has made complainant In charge, Head Master and vide letter



dated 28.08.2012 directed the accused No. 1 to hand over charge to the complainant but the accused number 1 did not hand over the charge. The District Programme Officer, thereafter, lodged F.I.R. against accused No. 1, Mustak Ahmad Ansari. The Complainant filed an application before the officer Incharge of the Khodaganj Police Station for lodging F.I.R. He filed an application before Superintendent of Police, Nalanda for lodging FIR against accused No. 1 on 19.02.2013 but nothing was done. The complainant had filed civil writ bearing CWJC No. 1380 of 2011. In the said writ petition, order was passed on 13.03.2012 by which his suspension was revoked. He also filed a civil writ bearing No. 14543 of 2011 in which order was passed on 15.03.2012 for payment of salary, but the accused No. 1 did not obey the order of the High Court.

From the facts stated above, it is obvious that there is dispute with regard to post of Head Master of the School between the complainant and accused No. 1, Mustak Ahmad Ansari. Even, if it is accepted that accused No. 1 did not obey the order of higher authorities and the Hon'ble High Court then



proceeding for disobeying the order of higher authority as well as Court's order can be initiated against the person concerned, but no criminal case is maintainable against the present petitioner.

From the averments made in the complaint, it appears that no specific allegation has been made against this petitioner constituting criminal offence.

In view of such, this Court finds that impugned order dated 03.09.2014, passed by the learned Sub Divisional Judicial Magistrate, Hilsa, at Nalanda in Complaint Case No. 723C/2013 is not in accordance with law. Accordingly, impugned order along with entire criminal prosecution against the petitioner is hereby quashed.

The application is, accordingly, allowed.

(Sanjay Priya, J)

Sudha/-

qwR/AFR	A F R
CAV DATE	NA
Uploading Date	23.12.2017
Transmission Date	23.12.2017

