

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.50864 of 2014

Arising Out of PS.Case No. -416 Year- 2002 Thana -BANKA District- BANKA

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1. Manohar Jha, Son of Late Kuldeep Jha Resident of Village - Chandpur Tola,
Sarmanchak, P.S. - Jagdishpur, District- Bhagalpur.
2. Kishun Pd. Son of Narayan Pd. Resident of Village - Maharathchak, P.S
-Shahkund, District - Bhagalpur

.... Petitioners

Versus

The State of Bihar

.... Opposite Party

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Appearance :

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

For the Opposite Party/s : Dr. Ajit Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-09-2017

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioners for quashing of the order dated 14.08.2014 passed by the learned Sessions Judge, Bhagalpur in Cr. Revision No.185 of 2014 by which the revision preferred by the petitioner against the order dated 15.07.2014 passed by the learned Judicial Magistrate-1st Class, Banka in Banka P.S. Case No.416 of 2002 has been rejected.

2. By the aforesaid order dated 15.07.2014, the learned Judicial Magistrate-1st Class, Banka had rejected the application filed by the petitioner under Section 239 of the Code of Criminal Procedure for discharge from the prosecution case.



3. The prosecution case is based on a written report submitted by the District Welfare Officer, Banka to the Officer-in-Charge, Banka Police Station, Banka on 15.11.2002 alleging therein that during the tenure of one Manoranjan Prasad, the District Welfare Officer, the petitioners were appointed as Nightguard-cum-Peon on the basis of forged papers purported to have been issued from the office of Director, Welfare, Patna and they also drew the salary to the tune of Rs.1,68,296/-.

4. The case was investigated upon by the police and on completion of investigation, the allegations made in the first information report were found true.

5. It has been submitted by the learned counsel for the petitioners that the petitioners were appointed by the then the District Welfare Officer, Sri Manoranjan Prasad and it was feel who have fabricated the documents on the strength of which, the petitioners had obtained the employment. He has submitted that the petitioners drew salary in lieu of the services rendered by them and, subsequently, the amount has also been deposited by them and, thus, they are not liable for the prosecution in the present case.

6. I find no substance in the submission of the learned counsel for the petitioners. There is specific allegation against the petitioners in the first information report that they had



obtained employment on the basis of forged and fabricated documents purported to have issued by the office of the Director, Welfare, Patna. They are the beneficiaries. The investigation also revealed their culpability in the matter. The probative value of the defence of innocence of the petitioners can be appreciated by the court below during trial and not at the stage of framing of charge, as sufficient materials are there on record to put them on trial. The learned Magistrate has rightly rejected the petition filed by the petitioners under Section 239 of the Code of Criminal Procedure.

7. For the same reason, no illegality can be found with the revisional order passed by the learned Sessions Judge whereby the revision application preferred by the petitioners has been rejected.

8. Accordingly, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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