

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.240 of 2017

Arising Out of PS.Case No. -447 Year- 2015 Thana -WAJIRGANJ District- GAYA

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Rajesh Bose, son of late Sheo Narayan Prasad

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha

For the Opposite Party/s : Mr. Sri Ganesh Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 05-05-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

The present application has been filed for quashing of
the First Information Report of Wazirganj P.S. Case No.447 of
2015 registered under Sections 420 and 409/34 of the Indian Penal
Code, pending in the Court of learned ACJM, Gaya

Prosecution case is that the petitioner being
Panchayat Rojgar Sewak misappropriated the government money
in plantation of trees during execution of Scheme No.08/2011-12
and 13/2011-12 under Gajadharpur Panchayat.

It is submitted by learned counsel for the petitioner
that the petitioner relies on the Circular dated 09.09.2014 issued
vide Memo No.Gra-VI-9(kha) BRDS-16/2013/2001331 by the
Principal Secretary, Govt. of Bihar, Patna to all the District
Magistrate-cum-District Programme Coordinator, Deputy



Development Commissioner-cum-Additional District Programme Co-ordinator, Block Development Officer and Executive Officer suggesting that before cancelling the contract of MANREGA employee or lodging of the FIR against them, the charges levelled against them must be enquired into and the same should be transmitted to the administrative department with complete detail and after obtaining the opinion of administrative department, the action be taken.

In view of this Court, the quashing of a F.I.R constituting cognizable offence can be done if the accusation does not constitute prima facie case or the prosecution is barred under certain law or the prosecution has been launched malafidely in order to wreak vengeance. Moreover, there is nothing on record to suggest the present stage of the investigation as the FIR was registered on 28.10.2015. Hence, this Court is not inclined to interfere into the matter.

Accordingly the application is disposed of with liberty to the petitioner to raise all the contentions at the appropriate stage of the proceeding.

(Dinesh Kumar Singh, J)

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