

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1092 of 2016

Arising Out of PS. Case No.-85 Year-2014 Thana- ARWAL District- Jehanabad

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1. Ramjee Mishra, son of Late Ramashish Mishra, resident of Village- Masadh, P.S.- Udwantnagar, District- Bhojpur.
 2. Md. Gheyasuddin son of Md. Alimuddin, resident of Village- Baniya Pokhar, Near Railway Hospital, Gaya, P.S.- Civil Line, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Madan Jeet Kumar

For the Opposite Party/s : Mr. Meena Singh(App)

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date : 11-09-2018

This petition under Section 482 Cr. P. C. has been filed for quashing the order dated 9.6. 2014 passed by C.J.M., Arwal in Arwal P.S. case no. 85 of 2014 by which learned Magistrate has taken cognizance for the offence under Sections 120B and 409 of the Indian Penal Code and also the consequential order dated 27.10.2015 by which learned Magistrate has dismissed the discharge petition of the petitioners filed under Section 239 Cr. P.C.

Heard learned counsel for the petitioners and the State.

Learned counsel for the petitioners has submitted that there is no misappropriation of money by these petitioners which has also come in the audit report. He has further



submitted that the document was filed at the time of hearing of the discharge petition, but, the learned Magistrate has not considered those papers.

Perused the impugned order(s).

The learned Court below has mentioned in the impugned order(s) that there are sufficient material against these petitioners in the case diary for framing of charge. The learned Magistrate has, accordingly, rejected the petition filed on behalf of the petitioners under Section 239 Cr. P.C.

Section 239 Cr. P. C. speaks as under:-

239. When accused shall be discharged.- If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.”

Section 239 Cr. P.C. clearly describes that where Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing. The learned Magistrate is required to see whether there are sufficient material to frame charge in the case.

In the instant case sufficient material have come during



investigation against the petitioners as appear from impugned order. The Court below is only required to see whether there are sufficient material to frame charge at the time of hearing of petition under Section 239 Cr. P.C. Therefore this Court does not find illegality in the impugned order.

This Cr. Misc. petition is, accordingly, dismissed.

The Court below will proceed in the case in accordance with law.

Petitioners are given liberty to file all necessary documents during trial in their evidence which shall be considered by the Court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.09.2018
Transmission Date	18.09.2018

