

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3020 of 2015

Arising Out of PS.Case No. -178 Year- 2010 Thana -ARWAL District- JEHANABAD

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1. Smt. Lalti Kumari, w/O Late Binod Narain Singh Headmistress, Up-Graded Middle School, Jalpura, Arwal

2. Sudarshan Sharma S/O Late Ram Naresh Sharma Secretary, School Education Committee, Up Graded Middle School, Jalpura, Arwal, And Both are resident of vill- Jalpura, P.S- Arwal, Distt.- Arwal.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Hira Jha

For the Opposite Party/s : Mr. Rabindra Kumar (APP)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 23-07-2018

Heard the learned counsel for the petitioners as well as the State.

The present application has been filed for quashing the order dated 22.08.2014 passed by the learned Additional Chief Judicial Magistrate, Jehanabad in Arwal P.S. Case No. 178/2010, whereby cognizance has been taken against the petitioners under Sections 406, and 409/34 of the Indian Penal Code.

In the written report, filed by the Block Education Officer, Arwal, it is alleged that in the light of letter no. 245 dated 01.11.2010 of the District Education Superintendent, Arwal and on the basis of joint enquiry report of the Assistant Engineer, Sarv Siksha



Abhiyan, Jehanabad and Junior Engineer, Sarv Siksha Abhiyan, Petitioner no. 1, who is the headmistress, Upgraded Middle School, Jalpura, Arwal and Petitioner no. 2, who is the Secretary, Vidyalaya Shiksha Samiti of Upgraded Middle School, Jalpura, Arwal did not get the work of construction of School Building according to rule and estimate of the work done. It is also alleged that the informant inspected the cash register and record of the aforesaid Vidyalaya Shiksha Samiti of Upgraded Middle School, Jalpura, Arwal and found financial irregularities in the construction of the aforesaid School building.

Learned counsel for the petitioners has submitted that during the course of investigation, the police submitted final form in the case as lack of evidence and the petitioners were exonerated from the charge and did not sent up for trial but the cognizance has been taken by the learned Additional Chief Judicial Magistrate, Jehanabad after differing with the police report. It has been submitted that in para 80 of the case diary the Investigating Officer has mentioned the supervision note of the Superintendent of Police, Arwal, who has in his conclusion stated that he had received letter no. 146 dated 29.05.2012 along with joint enquiry report of construction of the aforesaid works of the Executive Engineer, Building Division, Arwal and Executive Engineer, D.R.D.A., Arwal from which it appeared that



in the construction of the aforesaid building, the materials were used according to the estimate of the work. Photo copies of letter no. 146 dated 29.05.2014 and the joint enquiry report of the Executive Engineers of DRDA and Building Construction Department, Building Division, Arwal are annexed as Annexure-2 series with the petition.

The police on the basis of the aforesaid report submitted final form after investigation of the case as lack of evidence. The petitioners were exonerated from the charge and did not sent up for trial. The learned court below took cognizance against the petitioners after differing with the police report under Sections 406, and 409/34 of the Indian Penal Code. It is clear from letter no. 146 dated 29.05.2012 and the joint enquiry report of the Executive Engineer, Building Division, Arwal and Executive Engineer, D.R.D.A., Arwal that the materials were used during construction work of school according to the estimate of the work.

The petitioners have also enclosed utility certificate dated 24.05.2014 issued under the joint signature of the Technical Supervisor, Junior Engineer and Assistant Engineer, wherein it has been mentioned that entire amount allotted for construction of the aforesaid School building have been utilized and no amount is due against the petitioners.

In such circumstances, the continuation of instant



criminal proceeding against the petitioners will be harassment to them and abuse of process of law.

Therefore the impugned order dated 22.08.2014 passed by the learned Additional Chief Judicial Magistrate, Jehanabad in Arwal P.S. Case No. 178/2010 along with the entire criminal proceedings against the petitioners is hereby quashed.

This Criminal Miscellaneous is, accordingly, allowed.

(Sanjay Priya, J.)

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AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	07.08.2018
Transmission Date	07.08.2018

