

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.16243 of 2015

Arising Out of PS.Case No. -44 Year- 2014 Thana -MADHWAPUR District- MADHUBANI

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Punam Kumari, W/o Shri Ramesh Singh, Resident of Village Basuki Bihari
(North), Post Bihari, Police Station Madhwapur, District Madhubani.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar, Advocate,

For the Opposite Party/s : Mr. Atul Chandra, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 05-02-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing of First Information Report of Madhwapur P.S. Case No. 44 of 2014 dated 11.10.2014 because the letter on the basis of which the First Information Report was instituted, has already been set aside by this Hon'ble Court in CWJC No. 3827 of 2014 holding that petitioner has been made scapegoat in this matter.

2. Heard learned counsel for the petitioner and learned counsel for the State.

3. Learned counsel for the petitioner has submitted that First Information Report has been lodged on the basis of letter No. 3772 dated 11.10.2014 by which the building was not found to be



constructed as per specification and order was passed against this petitioner to demolish the building and make construction at their own cost. The aforesaid letter dated 11.10.2014 was challenged by the petitioner before this Hon'ble Court which was disposed off by order dated 18.11.2013 passed in CWJC No. 22798 of 2013 with direction to the petitioner to file additional representation before the competent authority. Thereafter, representation was filed and the order was passed against this petitioner vide letter No. 4548 dated 31.12.2013, finding the petitioner to be guilty.

4. The aforesaid letter No. 4548 was challenged by this petitioner in the Hon'ble High Court which was disposed off by order dated 4.12.2014 passed in CWJC No. 3827 of 2014, by which the Hon'ble High Court has held that this petitioner could not be saddled with the liability because failure was on the part of technical expert to keep the routine check on the construction of the building in question and petitioner has been made scapegoat where default if lies elsewhere.

5. Learned counsel for the petitioner has submitted that since Writ Court has stated that liability lies elsewhere, the petitioner could not be saddled with the liability. The instant First Information Report is fit to be quashed on account of such finding of the Writ Court.



6. This Court is of the view that the Writ Court cannot give finding with regard to disputed question of fact. The disputed question of facts require proper investigation by appropriate agency.

7. In the instant written report there is specific allegation against this petitioner that irregularity has been committed in construction of the school building during the financial year 2009-10. Accordingly the order was passed against the petitioner to rebuild the building at his own cost after demolishing the same.

8. This Hon'ble Court in CWJC No. 3827 of 2014 vide order dated 4.12.2014 has held after hearing the parties that if there was deviation from the specification, then it was the duty of the technical expert to keep a routine check on the construction of the building and the petitioner could not be saddled with the liability. It is a clear case of making petitioner scapegoat even default if any lies elsewhere.

9. In this manner, from the observation of this Hon'ble Court in CWJC No. 3827 of 2014 it appears that this Hon'ble Court in its writ jurisdiction kept the matter open, to be investigated by the police, about the real defaulter and who is responsible for such laches.

10. Therefore, this Court is of the view that merely on



the basis of observation given by the Hon’ble Court in CWJC No. 3827 of 2014, that liability lies elsewhere and the petitioner could not be saddled with the liability, the instant First Information Report can not be quashed.

11. Therefore, this Criminal Miscellaneous application is dismissed.

12. The police is directed to investigate the case and submit report in terms of Section 173 Cr. P.C as early as possible preferably within a period of three months from the date of receipt of this order.

13. The District & Sessions Judge, Madhubani, is directed to communicate this order to the concerned Superintendent of police for taking appropriate action in the matter.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
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