

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25997 of 2017

Arising Out of PS.Case No. -316 Year- 2015 Thana -BUDDHACOLONY District- PATNA

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1. Shankar Kumar Maity (working as a Chief Manager, Support, in Supreme & Co. Ltd, Kolkata), son of Late Surendra Nath Maity, R/O P-200, Banarasi Road, Howrah, West Bengal-711108.

.... Petitioner/s

Versus

1. State of Bihar
2. Praveen Kumar, son of Late Ravindra Kumar Tiwary, resident of Village-Baijani, P.S. - Jagshpur, District-Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjiv Sharan
For the State : Mr. Sri Jai Narain Thakur
For the O. P. No.2 : Mr. Buxi SRP Sinha, Sr. advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

10 25-04-2018 Heard the learned counsel for the petitioner, the learned A.P.P. and the learned senior counsel for the opposite party No.2, Praveen Kumar.

The petitioner/informant filed this petition to cancel the bail granted to the opposite party No.2 by this court vide order dated 24.04.2017 passed in Cr. Misc. No. 52443 of 2016 in Budha Colony P.S. case No. 316 of 2015.

The learned counsel for the petitioner submits that the informant made allegation against the opposite party No.2 that he being Project/ Site Engineer of M/s Supreme & Co. Ltd. was entrusted with different electrical articles for wiring and erection



of electric pole worth Rs. 98,38,551/- for construction of 33KV and 11 KV electric line of working site Sangrampur, Munger and Ghogha, Bhagalpur but opposite party No.2 did not complete the work nor returned the articles. It is submitted that notice was issued to the informant/petitioner vide order dated 09.03.2017. The informant received the notice in which date of next hearing of Cr. Misc. No. 52443 of 2016 was fixed as 28.04.2017 but the aforesaid case was listed on 24.04.2017 itself and opposite party No.2 was granted bail primarily on the ground that the informant did not appear and the I.O. did not collect any paper during the course of investigation showing articles received by the opposite party No.2. It is submitted that petitioner brought this fact to the notice of this court by filing a petition and on such by order dated 10.05.2017 passed in Cr. Misc. No. 52443 of 2016 the Registrar General was directed to initiate a departmental proceeding against the erring Assistant who placed the case for admission before the date fixed for appearance of informant. The learned counsel for the petitioner submits that from perusal of the bail petition filed by opposite party No.2 it would appear that he has stated that he was not a Project/ Site Engineer in the company rather he was simply a worker in the company and he was never appointed as Project/ Site Engineer of the company, therefore, the allegation of taking



articles worth Rs. 98 lac and odd is concocted. It is submitted that from perusal of Annexures-1, 2 and 3, it would appear that opposite party No.2 was appointed as Project/ Site Engineer in Supreme & Co. Ltd. and he concealed all the material facts. The opposite party No.2 received the articles from the company for electrification work but without completing the work he misappropriated the entire articles of the company and fled away. The petitioner knowingly concealed all these facts in the bail petition.

On the other hand, Mr. Buxi S.R.P. Sinha, the learned senior counsel for the opposite party No.2, submits that from perusal of the order dated 24.04.2017, it would appear that the court granted bail to the opposite party No.2 taking into consideration the fact that I.O. did not collect any paper showing the articles received by opposite party No.2 and the fact that he was in jail since 28.09.2016. The bail was granted to opposite party No.2 on 24.04.2017 and he remained in jail for about seven months and on such consideration in a case under Section 406, 420 of the IPC bail was granted to opposite party No.2. It is further submitted that after grant of bail the opposite party No.2 never misused the privilege of bail and he is ready to appear on each and every date during the course of trial. Let the trial itself be



concluded as soon as possible and the opposite party No.2 is ready to face the trial but once privilege of bail is granted the same is not liable to be cancelled.

Having considered the facts and on perusal of records, I find that opposite party No.2 in his bail petition concealed all the material facts with regard to his appointment on the post of Project/ Site Engineer. Opposite party No.2 stated that he was simply a worker of the company and he never received any articles of the company for electrification work and on his submission notice was issued to the informant. The informant received the notice in which date of hearing of bail petition was fixed on 28.04.2017 but due to fault of the Assistant the case was listed before the date fixed for hearing and that is why the informant could not appear. It appears that informant brought all the documents on record showing that opposite party No.2 is diploma holder besides the experience of Project Engineer as well as project management and on such he was appointed on the post of Project/ Site Engineer. The informant also filed the documents showing the articles received by opposite party No.2 for completion of work but he, without completing the work, took away the articles of the company worth Rs. 98 lac and odd and fled away. I find that opposite party No.2 got bail on concealment



of facts and, therefore, bail granted to opposite party No.2 is liable to be cancelled.

Accordingly, the order dated 24.04.2017 passed in Cr. Misc. No. 52443 of 2016 is hereby cancelled. The opposite party No.2 is directed to surrender in the court below within two weeks from the date of receipt of this order. If the opposite party No.2 does not surrender within two weeks, the learned court below shall take coercive steps to procure the attendance of opposite party No.2.

This petition is allowed.

(Prabhat Kumar Jha, J)

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