

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.20931 of 2016

Arising Out of PS.Case No. -10 Year- 2013 Thana -MATIARIA District-
WESTCHAMPARAN(BETTIAH)

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1. Nagina Ram, son of late Jhagaru Ram, resident of village - Majhariya Sheikh,
P.S.- Majhauria, District- West Champaran, at present posted in Piprahi Block,
District - West Champaran on the post of Panchayat Secretary

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Akhileshwar Kumar Srivastava, Advocate

For the Opposite Party/s : Mr. Ajay Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 27-08-2018

The petitioner is aggrieved by the order dated 02.03.2016 passed by the Judicial Magistrate, 1st class, Bettiah, West Champaran, in Tr. Case No.2195 of 2016 arising out of Matiyariya P.S. Case No.10 of 2013 by which discharge petition filed by the petitioner for his discharge has been rejected.

Counsel for the petitioner submits that petitioner has already handed over charge, which will be apparent from Charge Report, which is available with the First Information Report as part of the same. It has further been submitted that there is no material in the case diary to frame charge in this case.

Counsel for the State submits that even plain reading of First Information Report will show that there is *prima facie* case



against the petitioner with specific allegation that he has not deposited various registers and documents along with Charge Report with intention to destroy the evidence in order to misappropriate the government money.

Counsel for the petitioner has pointed out Charge Report, which is available with the First Information Report as part of the First Information Report. From the Charge Report, it appears that the documents which were handed over at the time of handing over charge were not complete and were in torn condition. They were soaked in water.

The police after investigation submitted charge-sheet against the petitioner. The Court below on the basis of charge-sheet submitted by the police has taken cognizance. The discharge petition has been rejected after looking into the materials available in the case diary.

Counsel for the petitioner has relied on the decision of this Court in the case of *Naresh Kumar Yadav Vs. State of Bihar* reported in **2013 (4) PLJR 828**, wherein, it has been held that merely not maintaining accounts by subordinates without any oblique motive would not constitute any criminal offence. Every negligence of duty could not constitute criminal offence unless same was culpable in nature.



Learned counsel for the State has relied on the judgment of the Supreme Court reported in *Yogesh Vs. State of Maharashtra* reported in **2008 (10) SCC 394** and submitted that the learned Magistrate is only required to see prima facie case at the time of framing of charge.

This Court after looking into the allegation in the written report as well as Charge Report, which is part of the First Information Report, finds that there is specific allegation against this petitioner that he did not deposit entire records to demolish the evidence of misappropriation. From the Charge Report, it appears that documents were incomplete and were soaked in water. All these things can be properly decided at the stage of trial.

In view of such, this Court does not find any illegality in the impugned order passed by the learned Court below.

This application is, accordingly, **dismissed**.

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

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	NAFR
CAV DATE	N/A
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