

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.29576 of 2017

Arising Out of PS.Case No. -16 Year- 2003 Thana -SHEKHPURA District- SEKHPURA

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Bisheswar Yadav son of Shri Karu Yadav, resident of Mohalla- Inday, Adarsh Colony, Girihinda, Police Station and District- Sheikhpura.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No.2, Advocate

For the State : Mr. Md. Aslam Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 22-02-2018

This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for quashing of the order dated 02.06.2017 passed by the learned Judicial Magistrate, 1st Class, Sheikhpura in G.R. No.49 of 2003 arising out of Sheikhpura P.S. Case No.16 of 2003 by which the petition under Section 239 of the Cr.P.C. seeking discharge from the case has been rejected.

2. The prosecution, in short, according to the informant, Shambil Haider, Secretary, Islamia High School, Sheikhpura is that the petitioner had applied for appointment against the trained graduate teacher and got appointed on 20.09.1992 on the basis of forged and fabricated documents. In the original application, he had shown himself M.A. B.Ed., but did not produce certificate of B.A. He had



shown degree of M.A. in Hindi from Tilka Manjhi, Bhagalpur University, Degree of LLB Part-III from Tilka Manjhi, Bhagalpur University and degree of Shiksha Visharad from Hindi Vishwvidyalay, Allahabad and all these degrees were obtained in the year 1992 and 1993.

3. In course of investigation, the allegation made in the FIR regarding production of forged and fabricated degrees was found true and charge-sheet was submitted against the petitioner. At the stage of framing of charge, an application was filed under Section 239 of the Cr.P.C. seeking discharge on the ground that the degrees obtained by the petitioner were found genuine and malicious prosecution has been launched against him. The learned Magistrate, after hearing the parties and examining the materials available on record as also the statement of the witnesses recorded in several paragraphs of the case diary, came to the conclusion that there were sufficient grounds to proceed with the criminal case against the petitioner. Accordingly, he dismissed the application for discharge preferred under Section 239 of the Cr.P.C.

4. It has been submitted by the learned counsel for the petitioner that the order passed by the learned Magistrate is erroneous on facts as well as in law. He submitted that several grounds favourable to the petitioner noted in the case diary have been ignored



and only those grounds have been taken into consideration for putting the petitioner on trial which were against him.

5. On the other hand, learned Additional Public Prosecutor appearing for the State submitted that the learned Magistrate has neither erred in law nor on fact. At this stage, the court is not required to minutely scrutinize the materials on record in order to record finding of guilt or innocence.

6. I have heard learned counsel for the parties and perused the record. I find substance in the submissions of the learned Additional Public Prosecutor appearing for the State.

7. Section 239 of the Cr.P.C. stipulates that 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. Thus, the Magistrate is required to give reason, if he decides to discharge an accused, but no reason is required to be recorded for putting an accused on trial, if the charge is not found to be groundless. However, in the present case, I find that the Magistrate has recorded reasons for not discharging the petitioner and the reasons recorded by him are neither erroneous nor



perverse. I do find the charges to be sufficient and serious for putting the petitioner on trial.

8. I view of the discussions made above, I see no merit in this application. The application is rejected.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
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