

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2628 of 2016

Arising out of Complaint Case No.-C-569 Year-2013 Thana- SIWAN COMPLAINT CASE
District- Siwan

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1. Nand Kishore Singh, S/o Late Ram Chandra Prasad Singh
Resident of Mohalla - Mitani Ghat, P.O. - Patna City, P.S. -
Khajekala, District - Patna
 2. Amrendra Kumar Gond S/o Late Rajendra Sah Resident of
Village - Barwa Kapurwa, P.O. - Mirganj, P.S. - Hathua, O.P.,
District - Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dhananjay Kumar S/o Sri Murli Manohar Shahi Resident of Village - Bana
Chapra, P.S. - Motipur, District - Muzaffarpur, Presently posted as
Accountant, Kasturba Gandhi Girls School, Jiradei, P.S. - Jiradei, District -
Siwan

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Advocate Mr. Shankar Kumar, Advocate
For O.P. No. 2	:	Mr. Uma Shankar Prasad Singh, Advocate
For the State	:	Mr. C.Sen Prasad Singh, A.P.P.

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 11-07-2018

Seeking quashing of an order dated 02.04.2014
passed by Sri P. Jha, learned Judicial Magistrate, 1st Class,
Siwan in Complaint Case No. C-569 of 2013, Trial No. 6836 of
2014 taking cognizance of the complaint under Sections
417/418/34 of the Indian Penal Code, this application has been
filed.

Applicant No. 1 has retired from service and
Applicant No. 2 is still in service. The complainant Respondent
No. 2 Dhananjay Kumar claims to have been appointed as an



Accountant in the office where the petitioners were working and it is his contention that for the work done by him in spite of assurance and promises granted, salary for the work and honorarium has not been paid and, therefore, the complaint case has been filed.

A bare reading of the entire complaint goes to show that in the matter of work executed by the respondent complainant as an Accountant because honorarium has not been paid by making a vague allegation that the same amounts to breach of trust or breach of promise made, the complaint has been filed. In my considered view, a bare reading of the complaint does not make out any offence under Section 417 or 418 I.P.C. None of the ingredients necessary for constituting the offence is made out. Except for making bald, unspecific and vague allegation that the promises and undertaking given were not fulfilled, the petition does not in any manner whatsoever indicate as to how and in what manner the ingredients necessary for constituting the offence under Sections 417 and 418 I.P.C. is made out. It is a case where for the work done by the petitioner salary or honorarium has not been paid. It is a salary dispute arising out of execution of the contract in service and for the same a criminal complaint of the nature based on vague and



unspecific allegation, in my considered view, is not maintainable. According to the respondent, there was no sanction for grant of work to the petitioners and, therefore, they have not acted in the matter. This is the defence of the petitioners but a bare reading of the complaint does not make out any criminal offence and, therefore, it is a fit case where the jurisdiction of this Court should be exercised to prevent misuse or miscarriage of justice and therefore, the application is allowed and the entire proceedings of Complaint Case No. C-569/2013, Tr. No. 6836 of 2014 is quashed.

(Rajendra Menon, CJ)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	18.07.2018
Transmission Date	

