

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18034 of 2015

Arising Out of PS. Case No.-571 Year-2013 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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Md. Yaseen @ Aasin Mohammad S/o Zamadar Minya, Resident of Village-
Dhanauji, P.S - Pakari Dayal, Dist- East champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Md. Karimuddin, S/o Md. Islam, resident of village- Jhajhawa, P.s
Purushotampur, Distt- East Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Narayan, Senior Advocate Mr. Bijay Shankar Choubey, Advocate
For the Opposite Party No.1	:	Mr. Smt. Asha Kumari (APP)
For the Opposite Party No.2	:	Mr. Lokesh Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 23-03-2018

Seeking quashing of Complaint Case No.571
C/2013 registered by the Chief Judicial Magistrate, West
Champaran at Bettiah for offences under Sections 406, 420 and
389 of the Indian Penal Code, this application has been filed for
quashing the proceedings in exercise of inherent powers of this
Court under Section 482 of the Code of Criminal Procedure.

It is the case of the complainant that in the garb of
getting the appointment, certain amounts have been taken from
the complainant and others and when they demanded the
appointment letter, nothing was done, accordingly, contending
that they have been cheated and money has been extorted from
them in an illegal manner, the complaint case was filed and



cognizance of the complaint having been taken, therefore, this petition for quashment, primarily on the ground that when knowingly a person disposes with his property or money for grant of any illegal benefit, like the appointment, offences under Sections 406, 415 and 420 of the Indian Penal are not made out and in support thereof, the principle laid down by a bench of this Court in the case of **Vijay Sharma & Anr Vs. State of Bihar**, 2011(1) PLJR 780, wherein identical position was in existence. In the said case, complainant paid a sum of money to the accused persons on the promise of providing them job in the police force and when jobs were not provided, complaint cases were filed and the learned Court from para 6 onwards took note of the ingredients necessary for constituting an offence under Sections 405, 415 and 420 of the Indian Penal Code and after considering the definition of offence under these sections and the ratio laid down by the Hon'ble Supreme Court in the case of **Chellor Mankkal Narayan Ittiravi Nambudiri Versus State of Travancore**, AIR 1953 SC 479, held that when a person knowingly and with his consent parts with his property or money for grant of appointment in an illegal manner, offences under Sections 405, 415 and 420 of the Indian Penal Code are not made out.



Keeping in view the law laid down in the case of **Vijay Sharma** (supra) which squarely applies in this case, this Court has no hesitation in allowing this application and quashing the complaint case.

Accordingly, the application is allowed and the Complaint Case No.571 C/2013 pending in the Court of Chief Judicial Magistrate, West Champaran, Bettia stands quashed.

(Rajendra Menon, CJ)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.03.2018
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