

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23265 of 2015

Arising Out of PS. Case No.-507 Year-2013 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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1. Md. Yaseen @ Aasin Mohammad, S/o Zamadar Miyan, Resident of village - Dhanauji, P.S. Pakari Dayal, Distt. - East Champaran.
 2. Tabbassum Ara @ Tabbassum Parween, W/o Md. Yaseen @ Aasin Mohamad, Resident of village - Dhanauji, P.S. Pakari Dayal, Distt. - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Anwarul Haque, S/o Adalat Miyan, resident of village - Gonahi, P.S. Sathi, Distt. - West Champaran.

... .. Opposite Party/s

Appearance :

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

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

3 23-03-2018 Seeking quashing of Complaint Case No.507 C/2013 registered by the Judicial Magistrate, 2nd Class, West Champaran at Bettiah for offences under Section 420/34 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 420/34, 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 Pena 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.507 C/2013 pending in the Court of Judicial Magistrate, 2nd Class, West Champaran, Bettia stands quashed.

(Rajendra Menon, CJ)

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