

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10408 of 2018**

Arising Out of PS. Case No.-556 Year-2015 Thana- MUZAFFARPUR TOWN District-
Muzaffarpur

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Sudha Kumari W/o Vinod Kumar Chaudhary, R/o Village- Kanhauli,
Vishundutta, P.S.- Mithanpura, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Amarendra Nath Verma, Adv
For the Opposite Party/s : Mr.Shyam Kumar Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT**

Date : 17-09-2019

Heard learned counsel for the parties.

2. The petitioner has sought for quashment of order of cognizance dated 10.05.2016 passed in Muzaffarpur Town P.S.Case No.556 of 2015 whereby the learned court below has taken cognizance under Sections 419, 420, 468 and 471 of the Penal Code against the petitioner on the basis of police report submitted under Section 173 Cr.P.C.

3. According to FIR, the petitioner got appointment on the post of contractual teacher by producing forged certificate of educational qualification of B.Ed.

4. Submission of learned counsel for the petitioner is that the petitioner had passed B.Ed Examination 1998 from S.Vakil Ahmad P.T. College, Darbhanga and certificate of passing



was issued in the year 1999. Thereafter, affiliation of the college was cancelled by the University on 29.02.2000 and then the certificate of B.Ed pass was sent to the L.N. Mishra University, Darbhanga for verification and the University cancelled the marksheet only on the ground that affiliation of the college was cancelled subsequently.

5. Submission is that this is not a case of forgery in certificate or cheating to anyone. When the petitioner had passed the B.Ed examination, the college was already recognized by the said University and recognition was cancelled subsequent to the passing of the petitioner. Moreover, in a civil writ petition, the order of cancellation of recognition was subsequently quashed by this Court. Further contention is that in pursuance of order passed by this Court in C.W.J.C. No.15459 of 2014, the State Govt. in the department of Education issued a press communique that those teachers, who voluntarily resigns from service till 29.07.2015, they will get general amnesty and no criminal prosecution would be lodged against them. The petitioner resigned from the service on 28.07.2015 within time permitted.

6. I find substance in the submission of learned counsel for the petitioner. The allegation made in the FIR does not disclose commission of any offence for which cognizance has been



taken especially in view of the fact that there is no allegation of making of false document. Hence, question of forgery does not arise and unless there is offence of forgery under Sections 468 or 471 I.P.C. cannot apply. The allegation of cheating is also not made out because the petitioner had no dishonest or fraudulent intention while applying for the post because the petitioner was holding a genuine and bonafide certificate of qualification. Hence, the criminal prosecution of the petitioner would amount to abuse of the process of the Court. Accordingly, the same stands quashed and this application is allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
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