

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.41777 of 2014

Arising Out of Case No.-1834 (C) Year-2000 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Shamsheer Singh S/o Late Sardar Ram Singh Resident of Mohalla Pua Gali, Jhauganj, Patna City, P.S. Chowk (Patna City), District Patna.
 2. Suyash Prakash S/o Late Satya Prakash Resident of Mohalla Chowk, P.S. Chowk Patna City, District Patna.
 3. Chandra Mohan Rai Saxena S/o Late Ramji Rai Saxena Resident of Mohalla Diwan, P.S. Khajekalan, District Patna.
 4. Naresh Prasad Singh S/o Late Kishori Prasad Resident of Mohalla Mohanpur Punaichak, P.S. Shastri Nagar, District Patna.
 5. Harvinder Singh Arora S/o Late Jodh Singh Resident of Mohalla Bare Ki Gali, P.S. Patna City, District Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Dr. Surjit Singh S/o Late Harnam Singh, Resident of Mohalla Abulas Lane, Machhuatoli, Patna-4, P.S. Kadamkuan, District Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ansul with Mr. Anuj Kumar and Mr. Krishna Chandra, Advocates
For the State	:	Mr. Md. Arif, A.P.P.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 28-01-2019

Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners have moved the Court under Section
482 of the Code of Criminal Procedure, 1973 for the following
relief:

*“That the present application is being filed by the
petitioners for quashing the order dated
06.02.2001 passed in connection with Complaint
Case No. 1834 (C)/2000, by learned Judicial*



Magistrate, 1st Class, Patna whereby and whereunder the learned magistrate prima facie has found the case is being made out against the petitioners under section 408, 409 and 120B of the Indian Penal Code and accordingly issued summon to the petitioners to appear in the matter.”

3. The opposite party no. 2 filed a Complaint Case No. 1834 (C) of 2000 alleging that the petitioners along with four others had embezzled the fund of Sri Guru Gobind Singh College, Patna City by making payment to staff/employees/teachers beyond the sanctioned strength.

4. Learned counsel for the petitioners submitted that the allegations are totally stale, false and frivolous. It was submitted that the allegations relate to the period prior to 2000 and the College became constituent in the year 1985 and thereafter only in terms of teachers whose services were approved by the Three-Man Committee of the University, payments were being made. Learned counsel submitted that four petitioners were bursars and one was Accountant at various points of time and their role was only to make bills and payments as per the instructions received from the College authorities/University. Learned counsel submitted that from the entire reading of the complaint, it is apparent that the same, at best, relates to service dispute, which cannot be given any criminal colour, muchless lead to institution of criminal case.



Learned counsel submitted that similar allegations were levelled before the Government and other authorities and a vigilance case is also going on and once the matter has been taken up before the right forum, the present case should not be allowed to continue. Learned counsel submitted that the sanction of the strength and the persons appointed all are of civil disputes which can be gone into either by the authorities of the University or the College itself or even by the Government and if anything faulty is found which may involve fraud or any criminality is associated with such conduct of the persons, the same would be taken care of and dealt with appropriately in the vigilance case. Learned counsel submitted that the most glaring lacuna in the present case is the fact that only a vague and bald statement has been made with regard to the payment being made to staff/employees/teachers in excess of the sanctioned strength without there being a single name being disclosed or the amount which has been paid to such excess staff/employees/teachers. Learned counsel also drew the attention of the Court to order dated 07.09.2017 passed in Cr. Misc. No. 35856 of 2012 in the case of similarly situated co-accused Dr. Balbir Singh Bhasin, by which the order dated 06.02.2001 taking cognizance in the present case as well as the entire criminal proceeding against him have been quashed. With



regard to the delay in filing of the present case, learned counsel submitted that initially, soon after the order of cognizance, the petitioner had moved this Court in Cr. Misc. No. 16222 of 2001 in which interim stay had been granted but later on due to non-appearance of learned counsel, the same was dismissed on 18.08.2010 and the Restoration Application was also dismissed on 16.03.2011 and thereafter the present case has been filed by the five petitioners.

5. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a case for interference has been made out. The entire reading of the complaint case discloses dispute relating to service which obviously cannot be a genuine ground for initiating criminal proceeding. No doubt, there are references with regard to financial irregularity but, as has rightly been submitted by learned counsel for the petitioners, there being not even a single example or detail of either any person or any amount which is involved in the so called/alleged irregularities, the Court finds that the same are too flimsy for justifying a full-fledged trial. Moreover, since the same issue has now been taken up by the vigilance and the trial is going on, the present case is not required to continue. In this context, another aspect which persuades the Court to interfere is the fact



that the complainant (opposite party no. 2) has chosen not to appear despite valid service of notice.

6. For reasons aforesaid, the application is allowed. The entire criminal proceeding arising out of Complaint Case No. 1834 (C) of 2000, including order dated 06.02.2001 by which cognizance has been taken by the court below, as far as it relates to the petitioners, stand quashed.

7. The Lower Court Records be returned forthwith.

(Ahsanuddin Amanullah, J)

Anjani/-

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