

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 4921 of 2015**

Arising Out of P.S. Case No.-234 Year-2012 Thana- AZAM NAGAR District- Katihar

Bani Sarkar, Wife of Sri Ashish Kumar Das Resident of Village-Azamnagar
P.S.-Azamnagar, District-Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 10-05-2019

Heard learned counsel for the petitioner and learned
APP for the State.

2. Learned counsel for the petitioner is permitted to
make necessary correction in paragraph no. 1 of the application
with regard to the relief claimed for.

3. The petitioner has moved the Court under Section
482 of the Code of Criminal Procedure, 1973 for the following
Relief:

*“That this is an application for quashing
the order dated 25.4.2014 passed by Sri Piyus
Kamal Dixit the Chief Judicial Magistrate, Katihar
in G.R. Case no. 3997 of 2012 arising out of Azam
Nagar P.S. Case No. 234 of 2012 whereby and
whereunder he has been pleased to reject the
petition filed under section 239 of the Cr.P.C. and
refuse to discharge the petitioner.”*



4. The allegation against the petitioner is that she being the Incharge Headmistress of the school in question, there was irregularity in the Mid Day Meal being given to the students.

5. Learned counsel for the petitioner submitted that on the relevant day i.e., 28.09.2012, she being ill was on leave since 17.09.2012 to 30.09.2012 and in her absence, another senior teacher was the Incharge Headmistress. It was submitted that thus, she was not responsible even if any irregularities were found. Learned counsel submitted that subsequently, the matter was enquired into by the Sub Divisional Officer, Barsoi, who has found that for the period the petitioner was the Incharge Headmistress, all the records were maintained properly, without any interpolation and there is also no irregularity or complaint detected. Based on the same, the petitioner has been exonerated and re-posted in the same school as the Incharge Headmistress. Learned counsel submitted that in the aforesaid view of the matter, nothing remains in the criminal case for the same was filed by the authorities alleging irregularity by the petitioner in distribution of the Mid Day Meal to the students.

6. Learned APP fairly submitted that in view of the authorities themselves giving a clean cheat to the petitioner, the application deserves to be allowed.



7. 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.

8. As has rightly been submitted by learned counsel for the petitioner, once upon the allegation by the authorities, the FIR has been lodged and the authorities themselves after conducting enquiry have found the petitioner to be innocent and have posted her back in the same school as Incharge Headmistress, criminal case against her cannot be allowed to continue as it would be an abuse of the process of the Court.

9. For reasons aforesaid, the application is allowed. The entire criminal proceeding arising out of Azamnagar PS Case No. 234 of 2012, pending before the Court below at Katihar, including all subsequent orders, as far as it relates to the petitioner, stands quashed.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

