

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40876 of 2019

Arising Out of PS. Case No.-148 Year-2010 Thana- Nasriganj District- Rohtas

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Braj Kishore Thakur Son of Heera Lal Singh Resident of Village - Kapasiya,
P.S.- Rajpur, Distt - Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manoj Kumar Singh Son of Not Known Resident of Village - Kapsiya, P.S.-
Rajpur, Distt - Rohtas.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhijeet Gautam

For the Opposite Party/s : Mr. Rajendra Prasad Nat

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

2 16-07-2019 Heard Mr. Sanjay Kumar, learned counsel for the

petitioner and learned APP for the State.

The petitioner has challenged the order dated
27.03.2019 passed by the learned Additional Chief Judicial
Magistrate, Bikramganj, Rohtas in connection with Nasriganj
(Rajpur) P. S. Case No. 148 of 2010, corresponding to G.R.
No. 1088 of 2010, whereby the petition preferred on behalf



of the petitioner for discharge under Section 245 of the Code of Criminal Procedure has been rejected.

The petitioner is the Coordinator of the school, who is alleged to have misused the fund meant for mid-day meal.

Mr. Sanjay Kumar, learned counsel for the petitioner has submitted that the petitioner had earlier come before this Court twice; on one occasion, the petition was permitted to be withdrawn; and on the other occasion, a Bench of this Court, finding that the order refusing to discharge is a cryptic order, set aside the said order and directed the trial court to write out a fresh order in accordance with law, giving reasons for the order.

Learned counsel for the petitioner has further submitted that the F.I.R. was instituted at the instance of the husband of one Menka Kumari, who claims that she ought to have been made the Principal of the school. In this background, it has been urged on behalf of the petitioner, that the present case is only a malicious prosecution and only because the wife of the informant was not made the Principal of the school, notwithstanding the order passed by



District Education Officer, this false case has been instituted.

Learned counsel for the petitioner submits that the allegation of withdrawal of money or misuse of money is basically of the Incharge Principal of the school and not the Coordinator.

However, from the materials relied upon in the order, it appears that the money was withdrawn with the joint signature of the Principal and the Block Coordinator.

The order impugned depicts the evidence and materials which have been collected during the course of investigation. Several paragraphs have been quoted in the order and statement of witnesses especially of such persons who have categorically stated that in one month, only 4 to 5 days mid-day meal was prepared in the school. Spot verification of the school also revealed that there was no trace of any food being cooked in the school.

For the aforesaid reasons, the court below was not inclined to discharge the petitioner and rejected the petition.

This Court finds no fault with the order. This petition, therefore, is without merits and also rejected.



It is made clear that any observation of this Court over the factual position is tentative and only for the purposes of disposal of this petition, which shall have no bearing in the trial.

(Ashutosh Kumar, J)

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