

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7099 of 2016

Arising Out of PS. Case No.-215 Year-2002 Thana- BHABHUA District- Kaimur (Bhabua)

Horil Sahani, Son of Late Phooldeo Sahani, Resident of Village- Sitalpur,
P.S.- Sugauli, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Satish Chandra Jha-3, Adv.

For the Opposite Party/s : Mr. R.P.S. Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 14-11-2019 The petitioner has approached this Court for quashing of the order dated 21.11.2015 passed by the learned Chief Judicial Magistrate, Bhabhua in connection with Bhabhua P.S. Case No. 215 of 2002, whereby cognizance has been taken under Sections 409, 120(B) and 34 of the Indian Penal Code.

2. Mr. Satish Chandra Jha, No. 3, the learned Advocate for the petitioner has submitted that the accusation against the petitioner is absolutely false and that the amount



which is said to have been paid to the contractor in excess has been found to be due to the aforesaid contractor.

3. This Court has also been informed that the petitioner had earlier approached this Court for quashing of the F.I.R. A Bench of this Court *vide* order dated 17.07.2015 took note of the submissions urged on behalf of the petitioner that the petitioner, for having paid the amount in excess of the due of the contractor, was departmentally proceeded against in which he was punished, but the High Court set-aside the aforesaid order of punishment and the order was affirmed and approved by the Division Bench of the High Court.

4. A request case also was filed by the contractor for appointing an arbitrator. The aforesaid request was allowed and the arbitrator gave an Award in favour of the contractor, indicating that the extra payment which has been alleged in the F.I.R. was due to him and it was not excess of his entitlement. That order has yet not been challenged and has thus attained finality.

5. Under the aforesaid circumstances, a Bench of



this Court, while hearing the petition for quashing of the F.I.R., asked for the response of the State by way of a detailed counter affidavit and stayed the taking of any coercive process against the petitioner in the meanwhile. Before the date on which the petition could have been finally decided, charge-sheet was submitted against the petitioner and cognizance was taken, which order is under challenge in the present petition.

6. The criminal writ petition which was filed by the petitioner about which reference has been made above was dismissed on 19.08.2015 on the ground of the petition having become infructuous with the submission of charge-sheet and the order taking cognizance.

7. This case was heard by another Bench on 25.10.2018, when the Court below was asked to send a report about the stage of the case and the Court was also directed to proceed in the matter expeditiously.

8. Pursuant to the aforesaid direction by a Bench of this Court, a report was sent by the learned Additional Chief Judicial Magistrate-V, Kaimur at Bhabua, which



indicates that a petition under Section 239 Cr.P.C. has been filed, which is pending adjudication.

9. Considering the aforesaid report, this Court directs that in case the petition under Section 239 Cr.P.C. is moved by the petitioner, the same shall be looked into and disposed off by a reasoned order without being prejudiced by the fact that the present petition has not been entertained.

10. The submissions urged on behalf of the petitioner shall be taken into account and then only the reasoned order shall be passed within a reasonable period of time.

11. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

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