

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 3358 of 2015**

Arising Out of P.S. Case No.-769 Year-2014 Thana- MUZAFFARPUR TOWN District-
Muzaffarpur

-
1. Meera Kumari, Wife of Sri Amrendra Kumar.
 2. Amit Kumar, Son of Sri Amrendra Kumar.

Both Resident of Mohalla - Bhikhanpura, Post Office - Muzaffarpur, Police
Station-Sadar, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sri Shishir Sinha, Son of Late Radhe Krishna Mishra, the Chief Manager,
State Bank of India, Muzaffarpur Branch (0138), Red Cross Building,
Muzaffarpur - 842001.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Prafull Chandra Jha, Advocate
For the State : Mr. Ajay Kumar No.2, APP

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

ORAL JUDGMENT

Date : 30-04-2019

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

2. The petitioners have moved the Court under Section
482 of the Code of Criminal Procedure, 1973 (hereinafter referred
to as the 'Code') for the following relief:

*“That this is an application for quashing
of order dated 11.12.2014 passed by the learned
Chief Judicial Magistrate, Muzaffarpur whereby
charges have been framed against both the*



petitioners under sections 467,468,471 and 420 of the Indian Penal Code and charges under section 409 of the Indian Penal Code against the petitioner no. 1 has also been framed in connection with Muzaffarpur Town P.S. Case No. 769 of 2014 dated 13.09.2014 (G.R. No. 4712 / 2014).”

3. The allegation against the petitioners is of defalcation of money meant for disbursement of salary.

4. Learned counsel for the petitioners submitted that as the petitioner no. 1 was the Drawing & Disbursing Officer and Principal of the concerned college, her duty was to prepare the bills of the entire school and if there was any irregularity/ discrepancy, it was required to be objected by the treasury concerned. It was submitted that the petitioner no. 1 had prepared the name and list of beneficiaries, which was submitted to the treasury but no objection was raised. With regard to petitioner no. 2, it was submitted that if at all, the money was transferred into the account of petitioner no. 2, by the petitioner no. 1, it was for the Bank officials to object and they not doing so, their conduct is suspect. Learned counsel submitted that there was no complaint against the petitioners and all teachers were receiving their respective salary regularly. Learned counsel further submitted that during the course of investigation, no material has come against petitioner no. 1.



5. Learned APP submitted that there is defalcation of money and certain documents have been forged and money has been transferred from the official account to the private account. It was further submitted that in the face of such grave misconduct, the petitioners are required to face trial, where they shall have full opportunity to prove their innocence by producing evidence in support of their case. It was further submitted that at the present stage, for the purpose of framing charge, the Court is not required to conduct a full fledged enquiry, and based upon the materials before it, after having taken cognizance, framing of charge cannot be said to be illegal. Learned counsel submitted that based on the materials available before the Court, cognizance was taken and the same not being challenged, it would not be open for the petitioner no. 1 to plead that there was no material before the Court for framing charge.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present application. As has rightly been submitted by learned APP, it shall be open to the petitioners to prove their innocence during the trial and the Court having taken cognizance and framed charges does not appear to have



committed any mistake warranting interference by the Court under its inherent power under Section 482 of the Code.

7. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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