

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3561 of 2015

Arising Out of PS. Case No.-170 Year-2007 Thana- KANKARBAG District- Patna

Vijendra Singh Yadav Son of Late Shobha Ram Yadav Resident of Mohalla -
Labour Colony, Firozabad, P.S. Linepar District - Firozabad U.P..

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh, Advocate

For the Opposite Party/s : Mr. J. Upadhyay, App

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 15-07-2019

Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

2. The petitioner is one of the accused in Kankarbagh P.S. Case No.170 of 2007 wherein cognizance has been taken for the offences under Sections 406 and 420 of the Indian Penal Code by the impugned order dated 15.03.2012.

3. According to FIR, the informant and others were getting tuition in Sangam Coaching Institute, Patna, whereat co-accused Arun Kumar and Sanjay Kumar were Deputy Director and Director; rather they were partners. During coaching period the aforesaid directors induced the informant and others that if they pay Rs.30,000/- they would get admission in Government ITI. The informant and others paid the aforesaid



amount. However, they did not get admission; rather the aforesaid Directors started delaying the matter. Ultimately, they took the informant and other students to Firozabad in the State of Uttar Pradesh for getting their admission in the ITI, Firozabad. The students did not get admission in Government ITI; rather Sarnam Singh ITI was there and the petitioner was director thereof. They contacted to the petitioner. The petitioner initially promised to fulfill the desire of the students and later on abused to them.

4. Submission is that there is no allegation of payment of money to the petitioner. Hence, offence under Section 406 of the Indian Penal Code against the petitioner is not made out. Likewise, there is no allegation that petitioner at any point of time with dishonest and fraudulent intention induced to any of the students including the informant to pay anything. Hence, the ingredient of the offence under Section 420 of the Indian Penal Code is also not made out.

5. Learned counsel for the State was asked to go through the case-diary and assist the Court whether any material has come in the case-diary against the petitioner. The paragraphs of the case-diary, read out by the learned counsel for the State, does not show that any other materials are there against the



petitioner.

6. Finding non-disclosure of the ingredients of the offences whereunder cognizance has been taken against the petitioner, the criminal prosecution of the petitioner is an abuse of the process of the Court. Hence, the impugned order, so far it relates to the petitioner only, stands quashed and this application stands allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
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