

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50208 of 2014**

Arising Out of Case No.-3381 CYear-2012 Thana- SARAN COMPLAINT CASE District-
Saran

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Satyendra Prasad Singh S/o Sri Mukhtar Singh Resident of Village and P.O.
Pachabhinda, P.S. - Taraiya, District - Saran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sri Prabhunath Singh S/o Late Paras Nath Singh Resident of Village -
Pachbhinda, P.S. - Taraiya, District - Saran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N. K. Agarwal, Sr. Advocate with
Mr. Binod Kumar Sinha, Advocate

For the State : Mr. Jharkhandi Upadhyay, APP

For The O. P. No. 2 : Mr. Ugranath Mallik, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 09-04-2019

Heard learned counsel for the petitioner; learned A.P.P.
for the State and learned counsel for the opposite party no. 2.

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

“ That this application is being filed for quashing of an
order dated 22.02.2013 passed by Shri Brajesh Kumar,
learned Judicial Magistrate 1st Class, Saran in Complaint
Case No. 3381-C/2012 Tr. No. 4042/13 by which the
learned court has taken cognizance against the petitioner



and one Vikash Kumar Singh under section 417 and 406 I.P.C.”

3. The allegation against the petitioner is that despite co-accused Viresh Kumar Singh being prohibited to act in the capacity of Professor-in-charge by order dated 08.02.2012 in CWJC No. 2379 of 2012, the petitioner in the capacity of Bursar of Yogiraj Deoraha Baldeo Singh College, Benipuri Nagar, P.S., Taraiya in the district of Saran signed on the cheques and withdrew money amounting to Rs. 2,70,000/- and attempt was made to withdraw further Rs. 1,50,000/-.

4. Learned counsel for the petitioner submitted that the complaint case, at least as far as the petitioner is concerned, is misconceived. It was submitted that the order of the High Court was in a case relating to co-accused Viresh Kumar Singh for which he has also been punished by order dated 12.08.2015 in M.J.C. No. 1592 of 2012. Learned counsel submitted that in the said case, the petitioner was also a party but no adverse order was passed against him as he had taken the plea that he had no knowledge about the order under contempt. Learned counsel submitted that the money was withdrawn for paying salary of teachers which was also given and that he being unaware of any stay granted by the High Court, no criminal offence can be made out against him.



5. Learned A.P.P. and learned counsel for the opposite party no. 2 submitted that the petitioner cannot claim innocence as he was fully aware of the entire episode. It was submitted that the petitioner, being the Bursar, cannot be said to be ignorant of what is happening with regard to the post of Professor-in-charge of his college and further that the Secretary of the Bihar School Examination Board (Higher Secondary), Budh Marg, Patna had communicated to the Sub Divisional Officer, Marhaura who was the *ad hoc* convener of the Managing Committee of the college in question to take appropriate steps in light of the order of the High Court in CWJC No. 2379 of 2012 dated 08.02.2012. Learned counsel submitted that the High Court not proceeding against the petitioner in contempt cannot be said to be an acquittal with regard to the charge of his complicity in withdrawing the money for the reason that the High Court had indicated in the order itself that no evidence was produced before the Court to show that the petitioner had knowledge of the order of the Court. Thus, it was submitted that such proof can now be produced before the Court below during trial only where the parties shall have the right and occasion to do so. Learned counsel submitted that the defence of the petitioner that he came to know of the order only on 24.03.2012 is also misconceived for the reason that the



appointment of another Professor-in-charge of the college may have been made at a later date but the same would not mean that the petitioner, who was the Bursar at the relevant time, would be unaware. Learned counsel submitted that even after the communication of the order dated 21.03.2012, when the petitioner was made the Professor-in-charge, he has signed on cheques for withdrawal of the money of the college in question showing himself as a Bursar and has signed along with co-accused Viresh Kumar Singh who has signed as Professor-in-charge. Learned counsel submitted that without connivance of the petitioner, money could not have been withdrawn and further that the petitioner is also accused of defalcation of more than Rs. 20,00,000/- of the college fund for which Taraiya P.S. Case No. 86 of 2016 has been instituted in which the petitioner is absconding.

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 been submitted by learned A.P.P. for the State and learned counsel for the opposite party no. 2, all materials with regard to whether the petitioner had knowledge of the order of the Court and whether such withdrawal was deliberate or out of ignorance, can only be



gone into in a full trial where parties shall have the liberty to produce material in support of their case.

7. For reasons aforesaid, the application stands dismissed.

(Ahsanuddin Amanullah, J)

Anjani/-

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