

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75845 of 2019

Arising Out of PS. Case No.-219 Year-2016 Thana- BARBIGHA District- Sheikhpura

Shiv Shankar Kumar, Son of Late Basant Prasad Singh, Resident of Village-
Kasar, P.S.-Ariari, District -Sheikhpura, Contractor in name of firm named
and styled as 'Maa Kali Netula Enterprises'.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. D.K. Singh, Senior Advocate

Mr. Abhinay Raj, Advocate

For the Opposite Party/s : Mr. Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 26-11-2019 This application has been filed for quashing of the
order dated 19.09.2019 whereunder cognizance of the offences
punishable under Sections 409, 120B and 420 of IPC has been
taken by the learned Chief Judicial Magistrate, Sheikhpura in
Barbigha P. S. Case No. 219 of 2016/G.R. No. 649 of 2016.

It further appears that petitioner has preferred a
criminal writ being Cr.W.J.C. No.804 of 2016 for quashing of
the F.I.R. but in the meantime, final form has been submitted
showing the petitioner 'not sent up' for trial, as such, writ
application was disposed of with liberty to challenge the order
of cognizance and accordingly, the present application has been
filed.

The prosecution case in short is that the work of
construction of building of High School, Maldah and the



amount of Rs.21,08,900/- was allotted to the petitioner. Further case is that on 28.02.2009 the construction work was started and the same was completed on 18.08.2009, but later on, on the direction of the District Magistrate, Sheikhpura, the F.I.R. has been lodged against the petitioner, as it is alleged that there were some irregularities in the construction work.

It further appears that on completion of investigation police has submitted the final form against the petitioner not finding the case true against him, which will appear from Annexure 4. However, the learned Magistrate differing from the final form, has taken cognizance against the petitioner.

Submission of learned counsel for the petitioner is that the learned Magistrate has passed the cognizance order without appreciating the fact that final form has been submitted in this case and his order is not a speaking order, only some paragraphs has been mentioned.

Heard learned APP for the State also.

Having heard both sides, in view of the facts, as stated above, the order dated 19.09.2019 passed by the learned Chief Judicial Magistrate, Sheikhpura in Barbigha P. S. Case No. 219 of 2016/G.R. No. 649 of 2016, is quashed.

The matter is remitted back to the learned Chief



Judicial Magistrate, Sheikhpura to consider if approach and pass a reasoned order stating what are the allegations against the petitioner within a period of three months from the date of receipt of certified copy of this order.

Accordingly, this application is allowed with above observation.

(Vinod Kumar Sinha, J)

Sunil Shukla/-

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