

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.254 of 2019

Arising Out of PS. Case No.-107 Year-2012 Thana- CHANPATIA District- West Champaran

Jitendra Kumar S/O Bidya Nand Thakur, resident of village Jokaha, P.S.
Bettiah Muffasil (Manuapul) District West Champaran.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar

For the Opposite Party/s : Mr.Sri Ajay Mishra

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

5 08-01-2020 This application has been filed for quashing of order dated 27.8.2018 passed by District and Sessions Judge, West Champaran at Bettiah in Criminal Revision No.95 of 2018 by which he affirmed the order dated 27.2.2018 passed by Sri Abhishek Kumar, J.M. Ist Class, Bettiah, West Champaran in Trial No.640 of 2018 corresponding to G.R.No.1485 of 2012 arising out of Chanpatiya (Sirisia O.P.) P.S.Case No.107 of 2012 whereby and whereunder the application for discharge filed by the petitioner under Section 239 of the Cr.P.C. has been rejected.

Prosecution case in short is that in spite of illegal appointment of one Nazma Khatoon, payment of Rs.2.25 lac has been made to her in pursuance to order passed in C.W.J.C.17081 of 2008 and L.P.A.No.1402 of 2009 and the petitioner and other accused persons are responsible for such illegal payment as the



petitioner facilitated her for making attendance in spite of the fact that she has not deposited Inter Certificate as required

Police after investigation submitted charge-sheet against the petitioner and other accused persons under Sections 420, 467, 468, 471 and 120B of the IPC against the petitioner and the concerned Panchayat Secretary and later on cognizance has been taken under the aforesaid Sections.

It further appears that during the trial a petition has been filed by the petitioner for discharge under Sections 239 of the Cr.P.C, which was rejected by the trial court, vide order dated 27.2.2018 as stated above, against which the petitioner has preferred Criminal Revision No.95 of 2018 that has also been dismissed, against which the present application has been filed.

Grounds for quashing is that in pursuance to order passed in CWJC No.17081 of 2008 and LPA No.1402 of 2009, payment was made and the petitioner in no way responsible for such payment. He has joined the post in the year, 2007, as such he is not responsible for appointment of Nazma Khatoon, moreover Panchayat Teacher is appointed by the members of the Appointment Committee, as such continuation of this proceeding will only an abuse of the process of the court.

Heard learned APP, who has opposed this application



referring para nos.4, 9, 13, 17 and 107 showing that the statement of the witnesses shows that after it has come to the knowledge that Nazma Khatoo is not holding the Intermediate degree, she was asked to stop marking attendance in the attendance register but the petitioner has facilitated her in marking attendance and due to that the payment has been made. So far order passed in Writ Application and the LPA by the Court, the same has been passed on the ground that she has worked , for that petitioner along with the other accused persons are responsible and as such *prima facie* case is against the petitioner and at this stage only the court has to see whether a *prima facie* case is made out or not, the court does not have to examine the same meticulously.

Having heard both sides and perused the case dairy also, from which it appears that in spite of direction, the petitioner has facilitated her in marking attendance and as such there are *prima facie* evidence available on the record, as such I find merit in the submission of the learned APP that the court while considering discharge petition only has to see *prima facie* evidence and it does not have to examine the evidence.

Considering the discussions as made above, I find no merit in this application.



Accordingly, this application is dismissed.

(Vinod Kumar Sinha, J)

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