

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33868 of 2020

Arising Out of PS. Case No.-376 Year-2019 Thana- PARBATTI District- Khagaria

1. Suneeta Devi, aged about 30 years, Female, Wife of Ranveer Kumar Pandit, Resident of Village- Nayagaon, Goriyasi, PS- Parbatta, District- Khagaria.
2. Dinesh Kumar Mandal, aged about 52 years, Male, Son of Adhik Mandal, Resident of Village- Kajjalwan, PS- Parbatta, District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Mushtaque Alam, Advocate
For the Opposite Party/s : Mr. Humayou Ahmad Khan, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 29-07-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Md. Mushtaque Alam, learned counsel for the petitioners and Mr. Humayou Ahmad Khan, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The petitioners apprehend arrest in connection with Parbatta PS Case No. 376 of 2019 dated 14.09.2019, instituted under Sections 406, 409 and 420/34 of the Indian Penal Code.

4. The allegation against the petitioners, who are the Chairman and Secretary of the Managing Committee, respectively, is of making entire payment for a scheme of repair



of a road without the full work being done as per the specification in the estimate.

5. Learned counsel for the petitioners submitted that the allegation basically relates to the quality of work which is not supposed to be checked by the petitioners as they are non-technical and that is the reason there is an Engineer to certify the work after ensuring that it is as per the specifications which are mentioned in the terms and conditions of the work order. It was submitted that the said Engineer, who is also an accused namely, Prabhash Kumar, has been granted anticipatory bail, though on deposit of Rs. 50,000/-, which has been made subject to the result of the criminal case, by a co-ordinate Bench by order dated 08.02.2021 in Cr. Misc. No. 13777 of 2020.

6. On 26.03.2021, on a specific query of the Court to learned counsel for the petitioners as to how they intend to make good the loss caused to the public exchequer as well as the work not being completed, a categorical stand was taken that the work as per the estimate would be completed within two months. When an affidavit on behalf of the petitioners was filed stating that the work was done and completed, the Court by order dated 28.06.2021 had called for a report from the District Magistrate, Khagaria with regard to the certificate of the Mukhiya as also



with regard to whether the work in question had been completed, as per the estimate and specifications and also whether the money which was spent by the petitioners, had been fully and properly utilized. In terms thereof, the District Magistrate, Khagaria has submitted a report through the learned APP in which there is a clear-cut finding that as per the specifications of the work, the same had not been done and various photographs have been attached. Perusal of the same discloses that the road in question is in a totally dilapidated condition and as per the report even the thickness is not as per the specifications and most importantly, the work which is said to have been done only recently appears to have been done many-many years ago and the chips are already showing on top of the road without there being any semblance of proper RCC work. Thus, the Court has no hesitation to record that the competition of work is a total sham and eye-wash.

7. When the Court called upon learned counsel for the petitioners to take a stand in view of the report of the District Magistrate, Khagaria there was no answer coming except for the submission that the Engineer, who is also an accused, has been granted anticipatory bail on depositing Rs. 50,000/-.

8. Learned APP submitted that in view of the report, it



is established that there has been total misuse and loot of public money as the road which is said to have been constructed by the money can be seen by the naked eye to be an apology of a road.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the contention of learned APP, and, thus, is not inclined to grant pre-arrest bail to the petitioners.

10. Accordingly, the petition stands dismissed.

11. Interim protection given to the petitioners under order dated 26.03.2021 stands vacated.

12. Before parting, once it has come to the notice of the Court about the issue, the Court is required to take judicial notice of the same.

13. Accordingly, let the District Magistrate, Khagaria personally look into the matter and fix responsibility and take appropriate action against all concerned, both for ensuring that against the persons who have committed such brazen illegality and have defalcated public money, suitable action is taken and also that the work which is in public interest by spending public money, being a public road is also completed as per the required specifications. It shall be ensured that the persons against whom responsibility is fixed shall pay for the loss suffered to the



public exchequer in getting the work done as per the specifications.

14. Learned APP shall communicate the order to the District Magistrate, Khagaria for compliance.

(Ahsanuddin Amanullah, J)

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