

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.499 of 2017

Arising Out of PS. Case No.-294 Year-2016 Thana- BAHERA District- Darbhanga

1. Srimati Ashman Nizam Wife of Md. Nizamuddin Ansari Resident of Mohalla- Jamia Nagar, Mohammadpur Quaziana , POPS- Bahera, District- Darbhanga, Ex Ward Councillor-cum- Chairman, Vidyalaya Shiksha Samiti , Utkramit Madhya Vidyalaya, Kotwalia tola.
2. Md. Nizamuddin @ Md. Nizamuddin Ansari@ Nizamuddin Son of late Md. Tasleem Resident of Mohalla- Jamia Nagar, Mohammadpur Quaziana, P.O. P.S.- Bahera, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Director General Of Police, Old Secretariat, Patna and Ors
2. The Inspector General of Police Director, Darbhanga Division, Darbhanga.
3. The Deputy General of Police Director, Darbhanga Division, Darbhanga.
4. The Senior Superintendent of Police, Darbhanga.
5. The Sub Divisional Police Officer, Benipur, Darbhanga.
6. The Officer Incharge, Bahera Police Station, Darbhanga.
7. Dr. S.M. Ali Emam Son of late S.M. Zaree Resident of Village- Quaziana , Ward No. 7, P.S. Bahera, District- Darbhanga, Present ward Councillor-cum- Chairman, Vidyalaya Shiksha Samiti , Utkramit Madhya Vidyalaya, Kotwali Tola, Ward No. 6

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar Priyadarshi, Adv.
For the Respondent/s : Mr.Ruchikar Jha, AC to SC-8

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 18-07-2022 Learned counsel for the petitioners has informed this Court that after investigation into the allegations made in the FIR, charge-sheet has been filed against petitioner no.1, as regards petitioner no.2 a final form showing him not sent up for trial has been filed. Learned counsel is not aware as to when the



charge-sheet has been filed. He has no instruction with regard to it but somehow he knows that the charge-sheet has been filed. On the query made by this Court as to whether order taking cognizance has been passed, learned counsel submits that the order taking cognizance has not been passed.

Learned counsel for the State is present.

Learned counsel for the petitioners has taken this Court through the allegations made in the FIR. The submission is that the FIR is liable to be quashed on the ground of its being malicious prosecution on the basis of an order passed by the Hon'ble Division of this Court in CWJC No.13253 of 2016.

On perusal of the FIR it appears that the allegation against both the petitioners is that they had connived in the matter of illegal appointment of the co-accused Sophiya Nizam and on the basis of the forged attendance register salary was being drawn in the name of the co-accused.

Since the police is said to have submitted a final form showing petitioner no.2 as not sent up for trial, this application as regards him has been rendered infructuous.

So far as petitioner no.1 is concerned, if so advised, she may challenge the charge-sheet and the order taking cognizance, if any, in an appropriate proceeding.



This writ application is disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

