

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47914 of 2015

Arising Out of PS. Case No.-1310 Year-2010 Thana- ROHTAS COMPLAINT CASE
District- Rohtas

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Bijay Kumar Jha @ Vijay Kumar Jha son of Late Digamber Jha, resident of Village- Nawanagar, Post Office- Harsinghpur, Police Station-Bahera, District- District- Darbhanga at Present Posted as Block Education, Sariya Block, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Arvind Kumar, Son of Sri Om Prakash Tiwari, resident of Village- Saraiyan, Police Station- Kochas, District- Rohtas.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Ravi
For the State	:	Mr. Jharkhandi Upadhyay, APP
For the Opposite Party/s	:	None

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

8 13-04-2023 Heard learned counsel for the petitioner and learned counsel for the State.

None appears on behalf of the opposite party no. 2-complainant with despite valid service of notice.

This application is filed for quashing the impugned order dated 14.05.2015 passed in Criminal Revision Case No. 223 of 2014 by learned Additional Sessions Judge-V, Rohtas at Sasaram and further quashing the complaint case no. 1310/2010, Trial No. 1347/2014 to the accused no. 4 who had not even a member of selection committee for selection/appointment of Siksha Mitra in 2005 and also quashing the consequential order by which cognizance under sections 409, 468, 120B/34 of the Indian Penal Code has been taken against the five accused



persons including petitioner.

As per allegation contained in the complaint case, the opposite party no. 2 had applied for appointment on the post of Panchayat Siksha Mitra in the year 2005 within the jurisdiction of petitioner because he was then Block Education Officer, Kochas Block, Rohtas. During course of appointment, the appointment committee in conspiracy with each other appointed co-accused Hrishimuni Singh ignoring the merit list of opposite party no. 2 and as such petitioner and other co-accused committed forgery and manipulation in the selection list for their illegal own benefit. During course of enquiry only complainant (O.P. No. 2) was examined and LLC was pleased to take cognizance under sections 409, 468, 120B/34 of the Indian Penal Code against five accused persons including Bijay Kumar Jha, Ex-Block Education Officer, Kochas, Rohtas.

It has been submitted by learned counsel for the petitioner that the opposite party no. 2 became unsuccessful and thereafter he filed application before the District Appellate Authority challenging the appointment of Shiksha Mitra in Sariyan village panchayat, which was rejected by the appellate authority in Complaint Case No. 33 of 2010, the same was challenged in this case vide CWJC No. 18636/2010 (Arvind



Kumar Vs. State of Bihar & Ors.) which was dismissed as withdrawn. The present complaint case has been filed by the complainant-opposite party no. 2 with regard to the irregularity in the appointment after being unsuccessful in the selection process as per the complaint the date of occurrence is 17.05.2005 and the complaint has been filed in the year 2010. There is no explanation for the delay in filing the complaint. Moreover, the complainant has suppressed the fact of dismissal of his complaint by the appellate authority. In these circumstances, it appears that this prosecution has been launched by the opposite party no. 2 only after being unsuccessful in the appointment process and it being the *mala fide* prosecution is quashed.

The impugned order dated 14.05.2015 passed in Criminal Revision Case No. 223 of 2014 and the entire prosecution in the Complaint Case No. 1310/2010, Trial Case No. 1347/2014, pending in the court of J.M. 1st Class, Sasaram against all the accused persons including the petitioner is hereby quashed.

(Sandeep Kumar, J)

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