

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50900 of 2015

Arising Out of PS. Case No.-1 Year-2014 Thana- PURNEA SADAR District- Purnia

Geeta Kumari Jaiswal @ Geeta Jaiswal Wife of Ram Krishna Jaiswal resident
of Chandan Nagar, Police Station - Sadar Purnea in the District of Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Dinesh Prasad Dinkar Son of Late Anirudh Poddar, then posted as Block Education officer, Sadar, Purnea, P.S. Sadar in the district of Purnea.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Kumar

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

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 18-04-2023 Heard learned counsel for the parties.

This application has been filed for quashing of the order dated 23.06.2014 by which learned Sub Divisional Judicial Magistrate has taken cognizance against the petitioner in connection with G.R. No. 14 of 2014 (arising out of Sadar P.S. Case No. 01 of 2014) registered under section 7 of E.C. Act.

As per prosecution case, the Block Education Officer, Sadar Purnea had filed written complaint before the S.H.O. Sadar, Purnea against the Head Mistress namely Geeta Jaiswal (petitioner) for her alleged involvement in misappropriation of one bag rice (40-50 Kgs.) with the help of one Md. Tanbir Alam, who was working as a labourer in the school premises. He



further submits that Md. Tanbir Alam was apprehended by the villagers on 01.01.2014 when he was carrying one bag rice. Thereafter the F.I.R. was registered against the petitioner and Md. Tanbir Alam.

It has further been submitted by learned counsel for the petitioner that for the alleged occurrence no departmental proceeding was initiated against the petitioner and a explanation/show cause so as to the fact that the school was closed on that day was accepted and therefore she has been exonerated of the charges by the department. The learned counsel for the petitioner has relied upon a judgment of the Hon'ble Supreme Court in the case of *Ashoo Surendranath Tewari Vs. Deputy Superintendent of Police, EOW, CBI (2020) 9 SCC 636* and has submitted that if for any alleged irregularity committed by the government servant, if the proceeding is dropped the criminal case cannot continue against the petitioner.

Learned counsel for the petitioner has also relied upon a judgment of this Court in the case of *Md. Taibyubul vs. State of Bihar (2019) 3 PLJR 239* and has submitted that the prosecution of the petitioner under 7 E.C. Act in the hands of private petitioner cannot continue.



Learned counsel for the State has filed a counter affidavit and has submitted that the school was closed on that date and the departmental proceeding which was initiated was dropped after considering the show cause submitted by the petitioner.

I have heard learned counsel for the parties and considering the aforesaid judgment *Ashoo Surendranath Tewari Vs. Deputy Superintendent of Police, EOW, CBI (supra)* and *Md. Taibyubul vs. State of Bihar (supra)*, I am of the view that the prosecution of the petitioner is an abuse of the process of law.

With the aforesaid observation, this application is allowed.

(Sandeep Kumar, J)

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