

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5535 of 2017

Arising Out of PS. Case No.-100 Year-2010 Thana- BAHERA District- Darbhanga

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Anand Kumar Jha Son of Jeevnath Jha, Resident of Village- Chaugama,
Police Station- Bahera, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Ram Lakhan Mishra @ Ramu Son of Late Dhanik Lal Mishra, resident of
Village- Chaugama, Police Station- Bahera, District- Darbhanga.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

4 29-01-2024 1. Heard learned counsel for the petitioner as well as
learned APP for the State.

2. The learned APP at the outset submits that in
compliance of the order dated 18.09.2023 a counter affidavit has
been filed on behalf of Senior Superintendent of Police,
Darbhanga.

3. The learned APP next submits that from perusal of
the pleadings made in the counter affidavit it would manifest
that the counter affidavit does not dispute what has been written
by the SDO, Benipur to the Additional Collector as contained in
Annexure-4 to the quashing application with regard to the
character of the O.P. No.2 herein i.e. he is a person with
questionable character and though he claims to be a social



activist but then he is also involved in criminal offences as recorded at para-13 of the counter affidavit and further from perusal of Annexure-C to the counter affidavit it would manifest that O.P. No.2 is implicated in five criminal case.

4. The learned APP further submits that the investigating officer of the case also obtained the inquiry report from the office of the DDC, Darbhanga during the course of the investigation of the allegation as alleged by the O.P. No.2 herein. It is next submitted that from the inquiry report it manifested that no specific allegations were made against the petitioner, but irregularities were found in the tree plantation programme allotment of Indira Awas and irregularities relating to soil filling, brick soling under 'Manrega'.

5. The learned APP further submits that there was no allegation of embezzlement of government money against the petitioner in the inquiry report which was obtained from the office of the DDC, Darbhanga. It is further submitted that the O.P. No.2 also instituted the instant FIR alleging against the petitioner with regard to the same irregularities which were inquired by the Rural Development Department, Government of India.

6. The learned counsel for the petitioner submits that



Annexure-4 is not disputed in the counter affidavit. It is also not disputed that during the course of the inquiry by the Rural Development Department, Government of India no embezzlement of fund was alleged against the petitioner though allegations were of committing some irregularity, but then irregularities itself does not give rise to a criminal offence. It is further submitted that O.P. No.2 despite receiving notice chooses not to appear which amply demonstrate that his only intention was to implicate the petitioner for some ulterior reason when he himself is implicated in five criminal cases.

7. It is next submitted that even during course of investigation no material transpired which connected the petitioner with the offence of embezzlement of money, but then cognizance came to be taken in a mechanical manner. It is also submitted that case is of the year 2010 and cognizance was taken in the year 2015 which was challenged by filing criminal revision no.51 of 2016 before the learned District & Sessions Judge, Darbhanga which came to be dismissed by order dated 01.10.2016 which is impugned in the present quashing application.

8. Considering the submission made by the learned counsel for the petitioner and also the facts which have come in



the counter affidavit filed on behalf of the Senior Superintendent of Police, Darbhanga, the order dated 01.10.2016 passed by the learned District & Sessions Judge, Darbhanga in Cr. Revision No.51 of 2016 affirming the order dated 18.12.2015 passed by the learned AC.J.M., Benipur, Darbhanga in connection with Bahera P.S. Case No.100 of 2010 whereby cognizance of offence under Sections 420, 406, 409, 467, 468 and 471 of the I.P.C. has been taken, is hereby quashed.

(Satyavrat Verma, J)

Prakash Narayan

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