

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14335 of 2016

Arising Out of PS. Case No.-100 Year-2000 Thana- CHOUTARWA District- West
Champaran

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Sadre Alam @ Md. Sadre Alam, Son of Md. Azim, Resident of Village-
Siswa, Basantpur, P.S.- Choutarwa, District West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Zainul Abedin, Advocate
For the State	:	Mr. Nirmal Kumar Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

12 24-10-2024 Heard Mr. Zainul Abedin, learned counsel for the

petitioner and Mr. Nirmal Kumar Sinha, learned APP for the

State.

2. The instant criminal miscellaneous petition has
been filed for quashing the order dated 27.07.2009 passed by the
learned A.C.J.M. Bagaha, West Champaran in connection with
Tr. No. 1910 of 2015 arising out of Choutarwa P.S. Case No.
100 of 2000 whereby the court below has taken the cognizance
of the offences against the petitioner under Sections 409 and
420 of the Indian Penal Code (in short 'IPC').

3. The main submissions advanced by learned counsel
for the petitioner are that as per allegation, the petitioner did not
complete the construction work of a small bridge (*puliya*) as



well as laying bricks on a road and the petitioner was bound to complete the said construction work regarding which a sum of Rs. 1,52,850/- was sanctioned against which Rs. 1,15,000/- was given to the petitioner as an advance amount and further, as per the allegation, the petitioner did not complete the said construction work despite having received the government amount of Rs. 1,15,000/- and according to the measurement book prepared by Junior Engineer, the construction work of the cost of Rs. 99,153/- was done by the petitioner and accordingly, it was alleged that the petitioner embezzled a sum of Rs.15,847/- but the said allegation is completely false and in this regard, Annexure-7 is relevant. The petitioner filed an application before Deputy Development Commissioner (D.D.C.), West Champaran, Bettiah requesting him to get the alleged construction work measured again and upon his request, the D.D.C., West Champaran directed the Block Development Officer (B.D.O.), Bagaha to enquire into the matter and take necessary action and thereafter, the Assistant Engineer gave his report to B.D.O. Bagaha on 13.04.2002 exonerating the petitioner from the charges and according to his report (Annexure-7), the petitioner had done the allotted work after spending Rs. 1,20,416/- which was more than the allotted



money, accordingly, the cost of the excess work was found to be Rs. 5,416/- and all these details is mentioned in Annexure-7 and in this regard, in paragraph '255' of the case diary, all the details are available. As such, the petitioner has not committed any wrong as well as embezzlement of amount which was allotted to him to construct the alleged government' work.

4. Though, the learned APP has opposed this petition but fairly accepted that there are details in the case diary regarding completion of the alleged construction work by this petitioner and he has not refuted the above-mentioned submission made by the petitioner's counsel.

5. Heard both the sides and perused the relevant materials which are available before this Court. After perusing Annexure-7 filed with this petition as well as paragraph '255' of the case diary, I find force in the above submissions of petitioner's counsel and the petitioner has completed the entire construction work assigned to him and it cost more than the amount which was allotted to the petitioner for completing the said construction work, so, in view of this fact, no offence as alleged are made out against him, accordingly, the order impugned taking cognizance of the offence under Sections 409 and 420 of IPC is hereby set aside and the entire criminal



proceeding having arisen in the light of the order of cognizance against this petitioner, stands quashed.

6. In the result, the instant Criminal Miscellaneous Petition stands allowed.

(Shailendra Singh, J)

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