

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54072 of 2018

Arising Out of PS. Case No.-173 Year-2016 Thana- CHAUTHAM District- Khagaria

Ajay Kumar @ Teacher Shri Ajay Kumar, Son of Late Damodar Singh, resident of Village- Ram Nagar, P.S.- Beldour, District- Khagaria Former In-Charge Headmaster Middle School, Kathmara, P.S. Choutham, District- Khagaria.

... .. Petitioner/s

Versus

1. State Of Bihar
2. Ram Kumar Singh, Son of Sri Ramashray Singh, At present B.E.O Choutham, Khagaria, resident of Village- Bajitpur Dumri, P.S. Deshri, District- Vaishali.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Mrityunjay Kumar, Advocate Mr.Arun Kumar Tiwary, Advocate
For the Opposite Party/s	:	Mrs.Sucheta Yadav, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 31-07-2024 On the basis of complaint dated 15th of December, 2016 submitted by the Block Education Officer, Choutham, Khagaria to the effect that the Headmaster of Kathmara Middle School, Chautham, Khagria was entrusted to construct two buildings of Sarva Shiksha Abhiyan and for the construction of the said building, he was granted a sum of Rs. 14,47,433/-, it is alleged, under the instruction of the District Education Officer, by the informant that the petitioner did not construct the said building fully and misappropriated Government fund.

2. On the basis of the said complaint, a case being Choutham P.S. Case No. 173 of 2016 was registered against the petitioner under Sections 420 and 409 of the IPC. On completion of investigation, police submitted charge-sheet



against the petitioner under the above-mentioned penal provision. The case was registered as G.R. No. 2645 of 2016 and the learned Magistrate, Khagaria took cognizance against the petitioner of offence under Sections 420 and 409 of the IPC. The said order of taking cognizance dated 12th of January, 2018 is under challenge in the instant application under Section 482 of the Cr.P.C.

3. The learned Advocate for the petitioner has made twofold submission.

4. Firstly, it is submitted by him that the petitioner is the Headmaster of a school being appointed by the District Education Officer, Khagaria. He discharged his duty of construction of a building as per the direction of his employer. However, the investigating agency did not obtain sanction for prosecuting the petitioner in a criminal case under Section 197 of the Cr.P.C. Therefore, the charge-sheet without the order of sanction is liable to be quashed.

5. Secondly, the learned Advocate for the petitioner draws my attention to Annexure 2 at Page No. 21 of the instant application. It is found from the said document that a departmental inquiry was conducted by the District Programme Officer, Education Department, Khagaria against the petitioner.



In the departmental inquiry, it was found that the petitioner duly constructed the house spending the amount which was granted in his favour and there was no irregularity in such construction work. Therefore, he was exonerated from the departmental proceeding.

6. Thus, it is submitted by the learned Advocate for the petitioner that when the petitioner was found to be not involved in any criminal misappropriation or cheating, the criminal proceeding is liable to be quashed.

7. I am in agreement with the learned Advocate on behalf of the petitioner. When the concerned department found that the petitioner constructed the building for which he was entrusted with a sum of Rs. 14,47,433/- and there was no evidence of misappropriation of any money or commission of the offence of cheating, criminal case against him under Sections 420 and 409 of the IPC cannot continue.

8. In view of the above discussion, the order dated 12th of January, 2013 passed by the learned Judicial Magistrate, 1st Class, Khagaria is quashed and set aside and G.R. Case No. 2645 of 2016 pending in the Court of the learned Judicial Magistrate, 1st Class, Khagaria is also liable to be quashed and accordingly quashed.



9. The instant application is accordingly allowed.

10. The Criminal Miscellaneous Case is, thus,
disposed of.

(Bibek Chaudhuri, J)

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