

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.46477 of 2015**

Arising Out of PS. Case No.-39 Year-2012 Thana- BARH District- Patna

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Nageshwar Rai, Son of Late Rambaran Rai, Resident of Village - Manoharpur  
Kachhura, P.S. - Gopalpur, District - Patna, Posted as Panchayat Sachiv of  
Village - Berhna, District - Patna.

... .. Petitioner/s

Versus

1. State of Bihar
2. Sanjay Kumar, In-charge of Sub - Divisional Welfare Officer, Barh, Patna.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Sudish Kumar, Advocate  
For the Opposite Party/s : Mr. Sadanand Paswan, Spl.APP

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**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH**  
**ORAL ORDER**

5      04-02-2025                      The instant application has been filed under section 482 of the Code of Criminal Procedure against the order dated 21.07.2015 passed by the 1<sup>st</sup> Additional Sessions Judge, Patna, in Special Case No. 27 of 2014 by which the discharge petition filed by the petitioner in connection with Barh P.S. Case No. 39 of 2012 registered under Sections 403, 409 & 418 of the Indian Penal Code (in short 'IPC') and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (in short 'SC/ST Act') has been rejected.

2. Mr. Sudish Kumar, learned counsel appearing for



the petitioner submits that as per the allegation levelled in the FIR against this petitioner an embezzlement of government fund relating to scholarship of scheduled caste students was done by this petitioner and each student was to receive the scholarship amount of Rs. 1200/- but as per the allegation, the petitioner distributed a sum of Rs. 600/- to six students and thereby misappropriated the balance amount of scholarship relating to the said six students but in fact, the petitioner had distributed the scholarship of Rs. 600/- on 26.11.2011 to six students of scheduled caste category on account of non-availability of sufficient funds and the said amount was given to the six students on their request and just two days after that payment the petitioner paid the remaining amount of scholarship to the said six students. He himself informed to the Sub-Divisional Welfare Officer, Barh on 26.11.2011 regarding the non-payment of entire amount of scholarship to six students due to non-availability of sufficient funds by sending an application which was signed by the students also. Thereafter, the petitioner made payment of balance amount of scholarship to the six students before Headmaster and *Mukhiya*, who also signed on the concerned paper relating to receiving of scholarship and in this regard Annexure-5 is relevant. It is further submitted that



the petitioner had submitted the required certificate before the Sub-Divisional Office, Welfare Branch on 22.02.2012 regarding the entire payment of scholarship to 269 students of the concerned category and some of the beneficiary students have sworn affidavit before Notary Magistrate stating that they had received the full amount of scholarship. It is further submitted that during investigation, the investigating officer did not record the statement of the beneficiary students under Section 161 of Cr.P.C. and the investigation remained faulty.

3. Mr. Sadanand Paswan, learned Special A.P.P. has opposed the petition and submitted that the order impugned rejecting the petitioner's prayer made under Section 227 of Cr.P.C. is proper and there is no need to interfere in the same as it is an admitted position that the petitioner did not make the payment of the entire scholarship to six students.

4. Heard both the sides and perused the FIR and the relevant materials. The instant matter relates to the embezzlement of the scholarship amount concerned to six students belonging to scheduled caste category and the petitioner has admitted in his petition that he distributed the scholarship amount to six students by giving each of them Rs. 600/- whereas, as per the scholarship rule each student was to



receive Rs. 1200/- and regarding the non-payment of the alleged amount of scholarship there is sufficient material in the case diary also. The defences taken by the petitioner’s counsel as discussed above are to be examined by the trial court and at this stage it cannot be presumed that the prosecution’s allegations are groundless. Accordingly, this court finds no merit in this petition, so, it stands dismissed.

(Shailendra Singh, J)

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