

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39117 of 2016

Arising Out of PS. Case No.-41 Year-2016 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

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1. Mundrika Singh Yadav @ Mundrika Singh and Anr son of Late Sukhdev Singh resident of Village- Sonbhadra, P.S.- Bansi, District- Arwal.
 2. Awadhesh Prasad son of Shri Ramdeo Singh Resident of Village- Sarwali Tola, Santoshi Bigha, P.S.- Bansi, District- Arwal.

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Kiran Kumar Rahi Son of Late Choudhary Singh Resident of Village- Mirzapur, P.S.- Kinjer, District- Arwal.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Basant Kumar Chaudhary, Sr. Advocate Mr. Hastina Pratap, Advocate
For the State	:	Mr. Chandra Bhushan Prasad, APP
For the O.P. No. 2	:	Mr. Umesh Kumar, Advocate Mr. T.N. Siddiqui, Advocate Mr. Abhishek Anand, Advocate Mr. Shubhankar Raj, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

12 21-01-2025 The present petition, under Section 482 Cr.PC, has been preferred against the impugned order dated 29.04.2016, passed by learned S.D.J.M., Arwal in Complaint Case No. 41 of 2016, whereby cognizance under Sections 417, 418, 406 read with Section 34 of the Indian Penal Code has been taken against the petitioners.

2. The factual background of the case is that initially, on the basis of complaint of one Kiran Kumar Rahi, learned



S.D.J.M. directed the police to register the FIR under Section 156(3) Cr.PC and consequently, Kinjer P.S. Case No. 75 of 2015 was registered on 17.07.2015 for offence punishable under Sections 420, 406, 419, 467, 468, 120B, 409 read with Section 34 of the Indian Penal Code against the petitioners. However, after investigation, the Final Form was submitted, finding that the vehicle was purchased by the petitioners from the fund of Mundrika Singh Yadav College, Mirzapur after decision of the Management Committee and following the due procedure for purchase. However, protest petition was filed by the informant. But despite the protest petition, the Final Form was accepted by learned Magistrate, but protest petition was registered as complaint bearing no. 41 of 2016, in which, the complainant and three other witnesses were examined under Section 200 Cr.PC. On the basis of the complaint as well as the statements of the witnesses and the complainant, the impugned order taking cognizance against the petitioners was passed. Being aggrieved by the impugned order, the present petition has been preferred by the petitioner.

3. As per the complaint and the statements under Section 200 Cr.PC, the sum and substance of the allegation is that the petitioners without permission of the Management



Committee have withdrawn Rupees fourteen lac from bank account of the college in Madhya Bihar Gramin Bank, Kinjer.

4. I heard learned counsel for the petitioners, learned APP for the State and learned counsel for the O.P. No. 2/complainant.

5. Learned counsel for the petitioners submits that the petitioners are innocent and have falsely been implicated in this case. He further submits that as a matter of fact, the Management Committee of the college took decision for purchase of a vehicle and in pursuance of the decision, the money was withdrawn from the account of the college and a Scorpio vehicle was purchased following due procedure of purchasing in the name of the college. Hence, no offence is made out. He has also filed a copy of the relevant decision of the Management Committee of the college to this effect. He further submits that on account of the aforesaid facts and circumstances, the police after detailed investigation, had filed a closure report and the same has been accepted by the learned S.D.J.M.

6. However, learned APP for the State and learned counsel for the O.P. No. 2 defend the impugned order submitting that there is no illegality or infirmity in it and the



present petition is liable to be dismissed.

7. Learned counsel for the O.P. No. 2 further submits that the vehicle in question should be also directed to be handed over to the Management Committee of the college, if it is being used for any other purpose.

8. I considered the submissions advanced by the parties and perused the materials on record.

9. I find that the Management Committee of the college took decision for purchase of a vehicle. In pursuance of this decision, the petitioners withdrew the required fund from the bank account of the allege and purchased a Scorpio car following the procedure provided for purchasing. I also find that the vehicle was purchased in the name of the college. Hence, I find that no *prima facie* case is made out against the petitioners. Therefore, the impugned order is not sustainable in the eye of law. It is liable to be quashed under Section 482 Cr.PC to prevent the abuse of the process of the Court and to meet the ends of justice.

10. Accordingly, the present petition is allowed, quashing and setting aside the impugned order dated 29.04.2016.

11. The person, who is in possession of the vehicle, is



directed to handover the possession of the car to the
Management Committee of the college.

(Jitendra Kumar, J.)

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