

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.785 of 2024

In
CRIMINAL MISCELLANEOUS No.48672 of 2024

Arising Out of PS. Case No.-1177 Year-2016 Thana- SARAN COMPLAINT CASE District-
Saran

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Nishikant Tiwari Son of Late Ramballabh Tiwari R/O Vill.- Singahi, P.O.-
Mehrauli, P.s.- Doriganj, Dist.- Saran, Chapra, Bihar.

... .. Petitioner/s

Versus

The State Of Bihar Through The Superintendent Of Police Chapra At Saran

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Adv., Mr. Prabhojot Singh, Adv.
For the State	:	Mr. Sunil Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

5 29-04-2025 The petitioner is the complainant before the learned

A.C.J.M.-IX, Chapra, in Complaint Case No. 1177 of 2016. He

has filed the instant criminal revision challenging an order dated

9th April, 2024, passed by the learned A.C.J.M.-IX, Chapra,

dismissing his complaint case under the provision of Section

203 of the Cr.P.C.

2. Being aggrieved, the instant criminal revision has

been filed, challenging correctness, legality and propriety of the

order dated 9th April, 2024. For proper appreciation of the facts

and circumstances leading to filing of the instant criminal

revision, it is necessary to narrate the case of the petitioner in

brief, which he made out before the learned A.C.J.M.-IX,



Chapra.

3. The complainant was originally posted as Senior Administrative Officer in Rajendra Asharfi Degree College, Kathari Bagh Road, Chapra, District- Saran. On 23rd May, 2015, one Dhananjay Kumar, the then Principal of the College, issued a relieving letter to the complainant, directing him to join Nalanda University, Rajgir to the post of Director Administration. On the basis of said relieving letter, the petitioner join Nalanda University and had been discharging his duty on and from 25th May, 2015. Subsequently, Nalanda University vide its letter dated 4th April, 2016 sent the said relieving letter to the Principal of Rajendra Asharfi Degree College, Kathari Bagh Road, Chapra for verification. On 9th April, 2016, the Principal sent a letter to Nalanda University denying issuance of the aforesaid relieving letter in favour of the petitioner. On the sent of the said letter, petitioner's service was terminated.

4. It is submitted by the learned Advocate for the petitioner that as many as two criminal cases were instituted against the petitioner, but both the cases were quashed by this Court. It is further contended on behalf of the petitioner that during initial enquiry, the learned A.C.J.M-IX, Chapra directed



the University Authority to produce both the letters in question. The said letters were produced by the University Authority. The learned A.C.J.M.-IX, Chapra, passed an order on 30th May, 2018, seeking for opinion of the handwriting expert in F.S.L., Patna. Subsequently, however, without considering the report of the handwriting expert, by passing the impugned order dated 9th April, 2024, he straightway dismissed the application under Section 203 of the Cr.P.C. on the ground that the petition of complaint does not disclose any offence under Section 463 and 464 of the I.P.C. Similarly, the complainant failed to prove, prima facie, case under Sections 420/409/466/468/471/120B of the I.P.C., so the aforesaid complaint case was dismissed under Section 203 of the Cr.P.C. Section 463 of the I.P.C. defines forgery in following words:-

“ Section 463- Whoever makes any false document or false electronic record¹ or part of a document or electronic record with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.”

5. Section 464 of the I.P.C. states the circumstances



when an accused may be tried for making a false document.

6. Section 466 of the I.P.C. runs thus:-

*“Section 466. **Forgery of record of Court or of public register, etc.—***

Whoever forges a document or an electronic record, purporting to be a record or proceeding of or in a Court of Justice, or a register of birth, baptism, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

7. Plain reading of Section 463 of the I.P.C. explains the ingredient of making a false document with intent to cause damage or injury to the public or to any person.

8. The petitioner left his job as Senior Administrative Officer of Rajendra Asharfi Degree College, Kathari Bagh Road, Chapra, on the basis of a relieving letter issued by the Principal of the said College, in order to join Nalanda University, to the post of Director Administration. Subsequently, the same Principal stated that the signature in the relieving order



did not appear to be his signature. Thus, he denied the signature on the relieving order. On the basis of his subsequent document, the complainant was terminated. Therefore, either of the said two documents was a false document created by the Principal of the said College. In order to ascertain the correctness of the signature, the trial court passed an order sending the documents to handwriting expert in F.S.L. along with the admitted signature of the Principal of the said College. But the learned Magistrate without verifying and waiting for the handwriting expert report straightway dismissed the case holding, inter alia, that the ingredients of offence under Section 463 of the I.P.C. had not been proved. No discussion was made as to whether allegation in respect of commission of other offences, as discussed above, was prima facie made out or not.

9. At the stage of taking cognizance, it is the duty of the learned Magistrate to see as to whether the complainant has been able to make out sufficient case to go for trial. At the time of taking cognizance, it is not the duty of the learned Magistrate, on the contrary to consider as to whether the evidence on record produced by the complainant on solemn affirmation, prima facie, proves commission of offence against the accused persons.



10. For the reasons stated above, this Court is not in a position to concur with the impugned order dated 9th April, 2024. The order dated 9th April, 2024, passed in Complaint Case No. 1177 of 2016 is set aside.

11. The learned A.C.J.M.-IX, Chapra is directed to cause further enquiry of this case, on the basis of handwriting expert report, to decide as to whether, prima facie, case has been made out against the opposite parties or not.

12. With the above direction, the instant criminal revision is allowed on contest.

13. There shall however no order as to costs.

(Bibek Chaudhuri, J)

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