IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25690 of 2018

CNR No. BRHC010386412018

Arising Out of PS. Case No.-273 Year-2015 Thana- DANAPUR District- Patna

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Kumari Supriya D/o Ujjawal Prasad Singh, Residence of Mohalla- 203 Block-C Saint Sai Enclave, Nehru Nagar, P.S.- Patliputra, District- Patna- 13.

... ... Petitioner/s

Versus

The State Of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Sanjeeb Kumar Sanju, Advocate
For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

5 29-10-2026 Heard learned counsel for the petitioner and learned APP for the State.

2. The present application has been filed for quashing the order of cognizance dated 02.02.2018 passed by the learned Additional Chief Judicial Magistrate, Danapur, in Danapur P.S. Case No. 273 of 2015, for the alleged offences punishable under Sections 419, 420 and 120B of the Indian Penal Code, Section 66 of the Information Technology Act and Sections 3/10 of the Bihar Examination Control Act, whereby summons were directed to be issued against the petitioner and two other accused persons named in the FIR.

3. As per the prosecution case, during the Chemistry examination at the examination centre of R.P.S. College,

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Danapur, the informant caught the petitioner along with two female students allegedly using an electronic device for adopting unfair means in the examination.

4. On the basis of the complaint, Danapur P.S. Case No. 273 of 2015 was registered on 17.05.2015 for the aforesaid offences. A seizure list was prepared by the investigating officer in the presence of witnesses.

5. Upon investigation, the police collected materials concerning the seized electronic device and sought expert opinions regarding its functionality and the availability of electronic data. By the impugned order dated 02.02.2018, the learned Additional Chief Judicial Magistrate, Danapur, took cognizance of the alleged offences and directed issuance of summons against the accused persons, including the petitioner.

6. Learned counsel for the petitioner submits that the prosecution is based on mere suspicion and the materials collected during investigation do not disclose the commission of the alleged offences. It is contended that the seized electronic device contained no SIM card and as per the expert opinions, the requisite electronic data could not be retrieved. The seizure list allegedly does not bear the petitioner's signature nor was a copy thereof supplied to him. Learned counsel for the petitioner,

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therefore, submits that no material exists to establish the ingredients of the alleged offences under the Indian Penal Code, the Information Technology Act or the Bihar Examination Control Act. It is accordingly argued that continuation of the criminal proceedings would amount to an abuse of the process of law, warranting quashing of the impugned order of cognizance and the consequential proceedings.

7. Learned counsel for the State has opposed the application of the petitioner.

8. Having considered the materials on record, this Court finds that the petitioner was allegedly found in possession of a mobile phone without a SIM card and no material was recovered to establish his involvement in adopting unfair means during the examination. Mere possession of a mobile phone, in the absence of any material connecting it with the alleged offence, cannot by itself justify criminal prosecution.

9. Although carrying a mobile phone into the examination hall may constitute a violation of the examination guidelines, no material has been brought on record to indicate that the petitioner actually used the device to adopt unfair means during the examination. In the absence of such material, continuation of the criminal prosecution would amount to an

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abuse of the process of the Court.

10. In view of the aforesaid discussion, this Court finds that the materials on record do not justify continuation of the criminal proceedings against the petitioner.

11. Accordingly, the present application is allowed.

12. The order dated 02.02.2018 passed by the learned Additional Chief Judicial Magistrate, Danapur, in Danapur P.S. Case No. 273 of 2015, and all consequential criminal proceedings arising therefrom, are hereby quashed insofar as the present petitioner is concerned.

(Sandeep Kumar, J)

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