
(2016) 02 PAT CK 0029

In the Patna High Court

Case No : Criminal Writ Jurisdiction Case No. 524 of 2015

Ishwar Dhari Singh and others

APPELLANT

Vs

The State of Bihar and others

RESPONDENT

Date of Decision : 02-02-2016

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Penal Code, 1860 (IPC) — Section 409, 420, 467, 468

Citation : (2016) 2 ECRC 50

Hon'ble Judges : Ashwani Kumar Singh, J.

Bench : Single Bench

Advocate : Umesh Kumar, Advocate, for the Appellant; A.N. Sinha, GP-II, for the Respondent

Final Decision : Disposed off

Judgement

Ashwani Kumar Singh, J. (Oral) - By way of the present application under Articles 226 and 227 of the Constitution of India, the petitioner seeks quashing of the first information report of Gaya Mufassil P.S. Case No. 67 of 2015 registered under Sections 420, 467, 468 and 409 of the Indian Penal Code.

2. It has been contended by the learned counsel for the petitioner that allegation of defalcation of Government money has been on the basis of erroneous facts. As a matter of fact, during his service period, an estimate of Rs. 8,70,000/- was sanctioned for the construction of the Utkramit Middle School, Manpur and, accordingly, by the first instalment, the amount of Rs. 6,60,000/- was credited in the account of Vidyalay Shiksha Samiti, as the said amount is running in the name of Secretary of the Vidyalay Shiksha Samiti and the headmaster, the petitioner as In-charge headmaster of the aforesaid school was made as executing agent of the said construction of the building and he has completed work of the amount of Rs. 6,60,000/-, but he received Rs. 6,42,959/- as per measurement book. It is further contended that the second instalment of Rs. 2,10,000/- has been credited in the account of Vidyalay Shiksha Samiti but the

said amount could not be withdrawn due to non-functioning of the Secretary of the concerned Vidyalay Shiksha Samiti and the said amount Rs. 2,10,000/- including the amount of Rs. 17,041/- and its interest has been still lying in the account of the school and same has not been misappropriated.

3. It is further contended that the petitioner has retired on 31.07.2010 from his post and on the same day, he has handed over the charge to the senior teacher of the concerned school namely, Savitri Kumari in which the said amount of 2,10,000/- including the amount of Rs. 17,041/- has been shown as amount under the head of building construction.

4. Learned counsel for the petitioner has further contended that the informant of the case has instituted the FIR mechanically without looking into the accounts of the school, as a result of which, the petitioner, who is a retired headmaster of the Government school, is facing humiliation and harassment.

5. On the other hand, learned counsel for the State has contended that in the FIR it has been alleged that the petitioner has defalcated Rs. 2,27,011/-. He had withdrawn Rs. 8,70,000/- and had completed work as per the measurement book to the tune of Rs. 6,42,959/- only. Despite his retirement, he has neither completed the work nor returned the amount.

6. At this stage, learned counsel for the petitioner seeks leave to withdraw the present application in order to file a detailed representation before the investigating officer of the case so that the investigating officer may investigate the case from all possible angles including the defence taken by the petitioner.

7. Leave is granted.

8. The application is disposed of.