

(2012) 04 PAT CK 0082

In the Patna High Court

Case No : Criminal Miscellaneous No. 33549 of 2007

Kedar Nath Rai

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 09-04-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 406

Citation : (2012) 04 PAT CK 0082

Hon'ble Judges : Rajendra Kumar Mishra, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajendra Kumar Mishra, J.—This application has been filed on behalf of the petitioner, u/s 482 of the Code of Criminal Procedure, to quash the order dated 10.4.2007 passed in G.R. No. 893 of 2004/T.R. No. 1420 of 2007 by the court of Sri Satyendra Singh, Judicial Magistrate, First Class, Buxar, rejecting the petition dated 24.11.2006 filed on behalf of the petitioner for discharge. In brief, the facts relevant to this application is that on the basis of the written report dated 28.6.2004 of the informant, Sri Naveen Kumar Verma, Executive Engineer, Sone Canal Division, Buxar, Buxar Town P.S. Case No. 130 of 2004 was instituted on 1.7.2004 u/s 406 of the Indian Penal Code against the petitioner, Kedar Nath Rai. It has been alleged by the informant in his written report that on transfer of the petitioner from the office of the Executive Engineer, Sone Canal Division, Buxar to the office of the Executive Engineer, Dehri Division, Dehri, his service-book vide letter no. 482 dated 19.4.1983 was handed over to him to get it received to the Executive Engineer, Dehri Division, Dehri, on 4.6.1983, but the same was not handed over to the Executive Engineer, Dehri Division, Dehri, for illegal gain by the petitioner, Kedar Nath Rai. Due to that reasons, different complications arose after his retirement.

2. After investigation, police submitted the chargesheet against the petitioner for

the offence u/s 406 of the Indian Penal Code and, accordingly, cognizance was taken. Thereafter, the petitioner, filed a petition on 24.11.2006 for discharge in the court of Sri Satyendra Singh, Judicial Magistrate, First Class, Buxar, who rejected the same through the impugned order dated 10.4.2007.

3. It has been submitted on behalf of the petitioner that the petitioner, who was posted as "Paribhramak" in the office of the Executive Engineer, Dehri Division, Dehri, after his retirement made request to the authorities for payment of his post retrial benefits but the authorities refused to make the payment of his retrial benefits in absence of his service-book, while the petitioner on his transfer from the office of the Executive Engineer, Sone Canal Division, Buxar to the office of the Executive Engineer, Dehri Division, Dehri, had received his service-book and handed over the same to one Ramadhar Singh, an Assistant in the office of the Executive Engineer, Dehri Division, but none officials have paid any heed. Thereafter, the petitioner filed C.W.J.C. No. 2363 of 2004 before this Hon''ble High Court, in which direction was given to the respondents to make payment of provisional pension and provident fund. Thereafter, with oblique motive and to harass the petitioner, the informant has lodged this false case bearing Buxar Town P.S. Case No. 130 of 2004 against the petitioner only to save his skin.

4. From perusal of the impugned order, it appears that the learned Magistrate on hearing the parties and going through the record arrived at the conclusion that cognizance for the offence u/s 406 of the Indian Penal Code was taken and there is sufficient material to frame the charge against the petitioner and, accordingly, rejected the petition dated 24.11.2006 filed on behalf of the petitioner for discharge. Under the aforesaid facts and circumstances, I find no illegality in the impugned order dated 10.4.2007 passed in G.R. No. 893 of 2004/T.R. No. 1420 of 2007 by the court of Sri Satyendra Singh, Judicial Magistrate, First Class, Buxar, amounting to abuse of the process of the court. Accordingly, this application stands dismissed. However, the petitioner would be at liberty to raise his defence, as raised herein, at the appropriate stage in the trial court.