

(2006) 11 PAT CK 0040

In the Patna High Court

Case No : Criminal Miscellaneous No. 31694 of 2006

Man Mohan Swaroop Khanna @ M.S. Khanna

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 20-11-2006

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 409, 420, 467, 468

Citation : (2007) 1 PLJR 684

Hon'ble Judges : Mridula Mishra, J

Bench : Single Bench

Advocate : Chakrapani, for the Appellant; J.P. Karn for O.Ps. 5 to 7 and Mr. R.K. Singh for the State, for the Respondent

Final Decision : Allowed

Judgement

Mridula Mishra, J.—Heard the counsel for the petitioner. State as well as opposite parties Nos. 5 to 7. This application has been filed for quashing the order, dated 20.7.2005, passed by the Sub-Divisional Judicial Magistrate, Patna, in Complaint Case No. 1751 (C) of 2005 whereby cognizance has been taken for offences under Sections 409, 420, 467, 468, 471 and 120B of the Indian Penal Code against the petitioner and summon have been issued.

2. Counsel for the petitioner states that earlier one of the accused, Parmatma Sharan Kansal @ P.S. Kansal, has challenged the order dated 20.7.2005, by filing Cr.W.J.C. No. 587 of 2005. The order taking cognizance as well as entire criminal proceeding was quashed by order dated 6.12.2005, by a reasoned order. Petitioner's case is fully covered by the judgment and order dated 6.12.2005, passed in Cr.W.J.C. No, 587 of 2005.

3. Petitioner's name has simply been mentioned in the complaint case which was instituted by opposite party No. 8 at the instance of one Daya Shankar Singh, who is main accused in the case. So far the first information report against Daya Shankar Singh and Ashraf Ali is concerned, was instituted on the direction of the

petitioner to the Deputy Director, Navodaya Vidyalaya Regional Office, Patna. The petitioner directed to terminate the service of Ashraf Ali and file first information report against concerned officer who issued appointment order in favour of Ashraf Ali though he was not selected and his name was not in the panel of selected candidates. Simply because the petitioner is behind the institution of the first information report against Ashraf Ali and Daya Shankar Singh, a false complaint case has been instituted. On consideration of the entire facts and discussing all points, the order, dated 20.7.2005, was quashed by this Court in Cr.W.J.C. No. 587 of 2005. It has also been stated that the petitioner has never been posted at Regional Office, Patna, all through his service career, he remained posted at Headquarter of Navodaya Vidyalaya. The allegation which has been made are not at all applicable to the petitioner making out a prima facie case for the offences for which cognizance has been taken.

4. Counsel appearing for opposite parties Nos. 5 to 7 as well as State have not controverted the statement made by the petitioner.

5. No one has appeared on behalf of opposite party No. 8, the complainant, even after proper service of notice.

6. On consideration of entire facts and circumstances of the case, prayer of the petitioner is allowed. The order taking cognizance, dated 20.7.2005, passed by the Sub-Divisional Judicial Magistrate, Patna, in Complaint Case No. 1751(C) of 2005 is quashed. This application is, accordingly, allowed.