IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.21293 of 2015

Arising Out of PS.Case No. -71 Year- 2013 Thana -C.B.I CASE District- PATNA

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1. Vikramaditya Singh Son of Keshav Prasad Singh, Resident of Villag e- Kahen, P.S. - Jagdishpur, District - Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar through Vigilance Department, Government of Bihar, Bailey Road, Patna.
2. Rajendra Prasad, Son of Late Balrup Ram, Superintendent of Police, Vigilance Investigation Bureau, Bhagalpur Range, Bhagalpur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vishwa Mohan Kumar Sinha, Adv.
Mr. Pankaj Kumar Sinha, Adv.

For the Vigilance : Ms Babita Kumari, A.C. to Mr. Ramakant Sharma, Sr.Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 18-09-2015

Heard learned counsel for the petitioner and learned counsel for the Vigilance.

The petitioner has been made named accused in Vigilance P.S.Case No.71 of 2013 dated 06.11.2013 registered under Sections 467, 468, 471, 420, 409, 120-B of the Indian Penal Code and 13(2) read with 13(1)(c) & (d) of the Prevention of Corruption Act, 1988.

In the FIR it has been alleged that one Ramroop Paswan and Manoj Kumar Jha had made a joint complaint that during the financial year 2009-10 and 2010-11 the officials including Mukhiya and the Panchayat Secretary of Kamalpur Srichak Gram Panchayat had defalcated Government funds granted for purchase of diesel for distribution to the farmers by preparing forged distribution register. A preliminary enquiry was made by the Vigilance on the complaint made by the aforesaid Ramroop Paswan and Manoj Kumar Jha and a report was submitted in this regard on 19.09.2013. In course of enquiry, it was found that all the 21 persons mentioned in the complaint petition, who were shown as beneficiaries under the Scheme belonging to Ward No.1 of Kamalpur Srichak, were fictitious persons. They did not belong to Kamalpur Srichak Gram Panchayat. The voter list obtained from the Block Development Officer shows that none of the names of the said beneficiaries were found mentioned therein. It was also found that two other distribution registers showing distribution of fund for paddy irrigation etc. amounting to Rs.9,22,875/- and Rs.51,162/- do not bear the signature or thumb impression of the beneficiaries. On those registers only the signatures of the Mukhiya, the Panchayat Secretary and the Block Development Officer have been found. It also transpired during enquiry that funds were withdrawn in the name of even dead persons.

In view of large scale irregularities reported in the distribution of funds under different Schemes of the concerned Panchayat during the financial years 2009-10 and 2010-11, an FIR was registered against the Mukhiya Md. Mustafa, the petitioner, who was the then Block Development Officer and the Panchayat Secretary Nagendra Kuer and Arbind Kumar. The matter was investigated by the Vigilance Investigation Bureau and on completion of investigation, the allegations were found true. Accordingly, a report under Section 173(2) of the Code of Criminal Procedure was submitted in the court of Special Judge, Vigilance-II, Patna, pursuant to which cognizance of the offence was taken.

At the stage of framing of charge, the petitioner filed an application for discharge, which has been dismissed by the learned Special Judge vide impugned order dated 01.04.2015. By way of present application filed under section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the order dated 01.04.2015 passed by the learned Special Judge, Vigilance-II, Patna in Special Case No. 23 of 2013.

Learned counsel for the petitioner has submitted that the petitioner, who was the then Block Development Officer of Sanhaula Block at the relevant time had no role to play in the distribution of fund to the beneficiaries and the lands possessed by them. The Block Development Officer was required only to provide fund to the concerned Gram Panchayat and it was the Gram Sabha, Mukhiya and the Panchayat Secretary, who selected the beneficiaries and distributed the fund to them. He further submits that the petitioner cannot be held responsible for the defalcation of any fund which might have been done by the Mukhiya or the Panchayat Secretary.

On the other hand, learned counsel for the Vigilance has submitted that there are serious allegations made in the FIR against the petitioner, which have been found to be true during investigation of the case. The petitioner had prepared a forged distribution register and withdrew Rs.9,33,348/- for the financial year 2010-11 in connivance with the Panchayat Secretary and the Mukhiya of the concerned Gram Panchayat. The distribution register would reflect that no signature or thumb impression of the beneficiaries was taken over it and the amount has been shown to be distributed among them.

I have heard the respective counsel for the parties and perused the materials available on record.

I find no illegality in the impugned order passed by the learned Special Judge whereby the application filed on behalf of the petitioner seeking discharge from the proceeding of the case has been rejected. The application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

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