

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.32731 of 2012**

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Kumar Prithunjay, son of Late Dr. Chhotey Narayan Singh, resident of M.I.  
6/2b, Road No.-11, Rajendra Nagar, P.S.- Kadamkuan, Distt.- Patna

.... .... Petitioner

Versus

1. The State of Bihar through CBI

.... .... Opposite Party

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**Appearance :**

For the Petitioner/s : Mr. Anirban Kundu

For the Opposite Party/s : Mr. Bipin Kumar Sinha(SC CBI)

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**CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR**  
**ORAL ORDER**

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6      22-04-2015

Heard learned counsel for the petitioner and Sri Bipin

Kumar Sinha, learned counsel for the Central Bureau of  
Investigation.

The petitioner, invoking inherent jurisdiction of this  
Court under Section 482 of the Code of Criminal Procedure, has  
prayed for quashing of an order dated 19.07.2012 passed by the  
learned Special Judicial Magistrate, C.B.I.- I, Patna in R.C. Case  
No.14 (S)/2006. By the said order, the learned Special Judicial  
Magistrate has rejected the petition for discharge filed on behalf of  
the petitioner under Section 239 of the Code of Criminal  
Procedure.

Learned counsel for the petitioner submits that though  
F.I.R. was lodged after conducting enquiry, the petitioner was not



named as accused in the F.I.R.. However, after investigation without any cogent material the petitioner was forwarded as one of the accused and he has also been chargesheeted. It was submitted by learned counsel for the petitioner that the petitioner being an Engineer and empanelled as facilitator/ Evaluator by the empanelment committee had simply submitted a report and on this ground alone he has been made accused.

Learned counsel for the petitioner tried to persuade the Court to examine the report, which was submitted by the petitioner vide Annexure-4 to the rejoinder/reply of the petitioner to the counter affidavit filed by the C.B.I.. He submits that on perusal of the report, it is evident that the petitioner had not committed any act of omission or commission showing complicity in the present offence. On the aforesaid ground, he has prayed to set aside the order impugned.

Learned counsel for the Central Bureau of Investigation has opposed the prayer of the petitioner and he submits that Council for Advancement of People's Action and Rural Technology (CAPART), New Delhi was cheated by NGO in connivance with accused persons including the petitioner. The case of the petitioner has been discussed in the chargesheet itself i.e. at page-8 of the chargesheet, which was submitted by the

Central Bureau of Investigation in the year 2007 itself.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. So far as the materials showing complicity of the petitioner is concerned, that has been discussed in the chargesheet i.e. internal page 8 in the last paragraph, which is quoted herein below:

“During pre funding evaluation, Sri Kumar Prithuanjay, has also falsely verified the statement of above SB A/c. no.9325 with PNB for the last three years and list of all the members of the executive committee. In his report, he also did not mention the discrepancy in the name of NGO mentioned in the PAN Card which shows that he did not actually verified the original records of NGO and given an incorrect verification report for some motives unknown. Being a certified/ qualified engineer, Sri Kumar Prithuanjay also did not verify the technical feasibility and stability of this project which resulted into wrongful loss to the tune of Rs.1,70,000/- to the government.”

So far examination of the pre-funding evaluation report i.e. Annexure- 4 to the supplementary affidavit is concerned, the Court is of the opinion that it would not be appropriate for this Court to place reliance on such document, which has not been brought on record before the court below. Such document can be examined at the appropriate stage by the trial court during trial. At the moment, this Court is only required to examine as to whether

there is any apparent error in the order impugned or not. On perusal of the impugned order, it is evident that there is no defect in the same. Moreover, in a criminal case trial is a rule and discharge is exception. I do not find any ground to interfere with the impugned order. The petition stands dismissed.

**(Rakesh Kumar, J)**

NKS/-

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