

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.835 of 2014

Arising Out of PS.Case No. -25 Year- 2014 Thana –Economic Offence District- PATNA

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1. Abhiram Trivedi S/o Sri Ram Balak Trivedi Resident of Mohalla Bibiganj, P.S. Sadar (Muzaffarpur), Town and District Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Inspector General, Economic Offence Unit, Bihar, Patna.

2. D.S.P.-cum-S.H.O., Economic Offence P.S., Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhimanyu Sharma, Adv.

Ms Prakritita Sharma, Adv.

For the Vigilance : Mr. Mr. Arvind Kumar, Adv.

For E.O.U. : Mr. Vishwanath Prasad Sinha, Sr. Adv.

Ms Soni Shrivastava, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 30-11-2015

Heard Mr. Abhimanyu Sharma, learned Counsel for the petitioner and Mr. Vishwanath Prasad Sinha, learned Senior Counsel for the Economic Offences Unit (for short 'EOU').

2. By way of present application under Articles 226 and 227 of the Constitution of India, the petitioner seeks quashing of the FIR of Economic Offence P.S.Case No. 25 of 2014 registered under Sections 13(2) and 13(1)(e) of the Prevention of Corruption Act, 1988 (for short 'P.C.Act').

3. The FIR has been instituted on the basis of confidential information received at the Police Station on 29.04.2014 by the Deputy Superintendent of Police-cum-Station House Officer of



Economic Offences Police Station in which it has been alleged that the petitioner joined his service as Deputy Collector on 04.03.1999. After joining the service, during the period of his posting at different places, he accumulated huge movable and immovable properties by corrupt practices in the name of his wife and other family members. The details of income, expenditure and the lands acquired in the name of the petitioner, his wife and his other relatives have been mentioned in the FIR. Concluding the allegation, it is said that Rs.01,03,50,000/- was found to be acquired by the petitioner, which was disproportionate to the known source of income of the petitioner.

4. Learned counsel for the petitioner has contended that the EOU has no authority to institute a case under the P.C.Act and proceed for investigation as well as the Investigating Officer has no authority in law to investigate the case. He has contended that the properties alleged to have been acquired by the wife of the petitioner were acquired from her own source of income and she was submitting income tax returns regularly. Advancing his argument, Mr. Sharma has contended that the investigation of the case is being done by a Police Officer of the rank of Inspector of Police who has no authority to investigate a case registered under Section 13(1)(e) of the P.C.Act. Further, the institution of the FIR is bad, because the same has been instituted without holding any preliminary enquiry into the matter.

5. Per contra, Mr. Vishwanath Prasad Sinha, learned Senior Counsel for the EOU has submitted that EOU Police Station has been constituted by Home (Police) Order No. 8752 dated 01.12.2011 vide notification 2/C1-208/08H (P)-2431 dated 25.03.2013 issued by Home (Police) Department, Govt. of Bihar. The object of constitution of EOU is to control economic offences as well as corruption. He has submitted that the authority to institute a case under the P.C.Act cannot be challenged. Mr. Sinha has further submitted that the allegations made in the FIR are quite serious in nature. He has submitted that after receipt of the confidential information, a team of the officers of the EOU held preliminary enquiry into the matter and submitted a report, which was processed upto the level of Inspector General of Police and after obtaining sanction from the Inspector General of Police, the FIR has been instituted by the SHO of the Police Station. He has further contended that there is no illegality in appointing an Inspector of Police as Investigating Officer of the case. The Superintendent of Police (EOU) in terms of second proviso to sub-clause (c) of Section 17 of the P.C.Act has authorized Mr. Arun Kumar Singh, an Inspector of Police, to investigate the present case. He has further contended that the Government of Bihar, in exercise of powers conferred by the first proviso to Section 17 of the P.C.Act, has authorized all Inspectors of Police employed/posted in EOU with

effect from 2nd August, 2013, to investigate all the offences punishable under Sections 7, 8, 9, 10, 11, 12, 13, 14 and 15 of the P.C.Act, without the order of Magistrate of the first Class.

6. I have heard the respective learned Counsel for the parties and perused the record.

7. I find substance in the arguments advanced by the learned Senior Counsel appearing for the EOU. I find no force in the submission of learned counsel for the petitioner that the EOU has no authority to institute a case under the PC Act. The police station of EOU has duly been notified by the Government of Bihar and there is no reason as to why a duly constituted Police Station would not register a case under the P.C. Act. Apparently, the case is being investigated by an officer of the rank of Inspector, who has duly been authorized to investigate the cases under various provisions of the P.C.Act. The State Government has already issued Notification No. 5884 dated 2nd August, 2013 authorizing the Inspector of Police employed/posted in Economic Offences Unit, Bihar to investigate all the offences punishable under different Sections of the P.C.Act. I further find that the Superintendent of Police, EOU has authorized the Investigating Officer of the case to investigate the case and thus, there is no illegality in investigation of the case.

8. At this stage, it is difficult to believe the contention of



the petitioner that no preliminary enquiry was conducted on receipt of confidential information regarding accumulation of huge property disproportionate to the known source of income specially because the learned Senior Counsel for the EOU has categorically stated that the procedure prescribed for holding the preliminary enquiry was duly followed in the present case before institution of the FIR. I further find that the allegations made in the FIR do attract the ingredients of a cognizable offence and hence there is no illegality in proceeding with the investigation of the case.

9. In that view of the matter, I find no illegality in the order impugned. The application is accordingly dismissed.

10. At this stage, learned Counsel for the petitioner has submitted that the FIR was instituted on 29th April, 2014 and till date investigation has not been completed. He submits that due to pendency of the criminal case the petitioner has been suspended from service and is facing acute financial hardship. He submits that a direction be issued to the respondents to conclude the investigation without delay.

11. It is well settled that to hold investigation into a cognizable offence is the statutory right of the Police. At this stage, the Court has no role to play. However, the investigating agency cannot sit tight over the matter. After registering the FIR, the

investigation into a cognizable offence has to be done with utmost sincerity. A sensitive and committed investigating agency is the need of the hour.

12. In that view of the matter, I direct the Superintendent of Police, EOU to personally monitor the investigation of the case and ensure submission of the police report under Section 173(2) Cr.P.C. before the court as early as possible, preferably within a period of six months from today.

13. The Registry is directed to send a copy of this order to the Superintendent of Police, EOU, Patna, forthwith.

(Ashwani Kumar Singh, J)

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