

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 27730 of 2013

Arising Out of PS.Case No. -105 Year- 2009 Thana -C.B.I CASE District- PATNA

=====

Raj Kishore Gupta S/o Late Bechan Prasad R/o Mohalla- Saristabad (South), Police
Station- Gardanibagh Town, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through Vigilance
2. Kishore Kumar Madhukar S/o Doman Singh Resident of Raghunath Tola, P.O-
Anisabad, Police Station- Gardanibagh, District- Patna.

.... Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Navin Kumar, Advocate

For the Opposite Party/s : Mr. Arvind Kumar, Spl. P.P., Vigilance

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 21-04-2016

Heard Sri Navin Kumar, learned counsel for the petitioner
and Sri Arvind Kumar, learned Special P.P. for Vigilance
Investigation Bureau.

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 02-01-2010 passed in Special Case No. 85
of 2009/10 of 2011 (arising out of Vigilance P.S. Case No. 105 of
2009). By the said order, the learned Special Judge, Vigilance 1st,
Patna has taken cognizance of offence under Sections 7, 13(2) r/w
13(i)(D) of the Prevention of Corruption Act, 1988.

Learned counsel for the petitioner, by way of referring to
Annexure – 2 i.e. order of prosecution sanction, submits that the



prosecution sanction was issued without application of mind. He submits that before the sanctioning authority, entire materials were not placed and as such, in absence of production of entire material before the sanctioning authority, the order of sanction is treated as an order passed without application of mind. He submits that since prosecution sanction is itself defective, the order of cognizance is liable to be set aside.

Sri Arvind Kumar, learned Special P.P. for Vigilance Deptt. has also placed reliance on **Annexure – 2** i.e. sanction order and he submits that before the sanctioning authority all the relevant materials were produced. A copy of progress report, F.I.R., complaint, Pre-Trap Memo etc. were produced before the sanctioning authority by the Vigilance Investigation Bureau and only thereafter, the learned Collector has issued prosecution sanction against the petitioner. He further submits that the petitioner was apprehended while demanding and accepting illegal gratification. After the trap, the trap money was also recovered from possession of the petitioner. The petitioner in the capacity of Halka Karamchari was demanding illegal gratification from the complainant and thereafter, trap was led and the petitioner was apprehended.

Besides hearing learned counsel for the parties, I have also perused the materials available on record, particularly; the order of

prosecution sanction (**Annexure – 2** to the present petition). On going through the prosecution sanction, the Court is satisfied that there is no apparent error in the same. It is evident that relevant materials were placed before the sanctioning authority i.e. Collector, Patna and only thereafter, order of prosecution sanction was issued.

At the time of argument, learned counsel for the petitioner accepted that after rejection of discharge petition, charges were framed and till date, at least two witnesses have already been examined.

In view of the fact that there is no error in the prosecution sanction order, I do not find any ground to entertain the present petition.

Accordingly, the petition stands dismissed.

Keeping in view the fact that order of cognizance was passed in the month of January, 2010 and till date, only two witnesses have been examined, the Court is of the opinion that in a trap case, the prosecution may not proceed with the case in leisurely manner. The reason is that in trap case, only few witness are required to be examined for establishing the case.

Accordingly, while dismissing the case, it is desirable to observe that learned Special Judge, Vigilance (Trap), Patna may take immediate steps so that trial may come to its logical end, preferably;

within a period of three months from the date of receipt/production of a copy of this order. The Vigilance Investigation Bureau/Vigilance Department is required to render full assistance to the trial court and take step for producing witness and material before the trial court for its early disposal.

Let a copy of this order be sent to the court below forthwith.

(Rakesh Kumar, J.)

Anay

U		T	
---	--	---	--