

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12285 of 2016

Arising Out of PS.Case No. -182 Year- 13 Thana -ASHOK PAPER MILL District- DARBHANGA

Dharam Godha, aged about 74 years son of late B.L. Godha, resident of J-26 Ground Floor, Paryawaran Complex, Ignou Road, New Delhi 110030: at Present Director of Ashok Paper Mills, Rameshwar Nagar; PS Ashok Paper Mills, District Darbhanga.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

For the Petitioner : Ms. Prakritita Sharma, Adv.

For the Opposite Party : APP

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

4 26-10-2016 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 420, 465, 486 and 471 of the Indian Penal Code registered in connection with Ashok Paper Mills P.S. Case No. 182 of 2013.

3. According to the petitioner, a written complaint was filed by one Sushil Kumar Choudhary claiming to be an employee of Ashok Paper Mills, on the basis of which F.I.R. has been instituted against three persons namely Sharda Yadav, Mahinath Jha and the petitioner with the following allegations:

- “ i. That the Ashok Paper Mills is a sick unit regarding which an I.A. No. 17 filed by accused no. 3 in Writ Petition No. 174/1991 filed by Ashok Paper Kamgar Union in the Hon’ble Supreme Court is under consideration.
- ii. That the mill was handed over in private hand of the accused no. 3 as a Private company under

certain terms and conditions for renovation and for protection of the interest of the workers but in last 17 years neither the mill was renovated nor the payments to the workers of the mill was made.

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- iii. That in the said I.A. No. 17 the accused nos. 1 & 2 submitted documents creating a fake union Mazdur Panchayat Union forging the signature of workers and respectively declaring themselves as President and General Secretary where as the actual President and General Secretary of the aforesaid Union is Sahnawaz Kaifi and Ram Deo Yadav. The documents the papers containing the fake and forged signatures of the workers including that of the complainant was also filed alongwith the affidavit whereas the complainant never signed such documents nor put his thumb impression.
- iv. That a fake minutes of the proceeding of the meeting of the workers dated 03.03.2012 was prepared in which 90% signature of the workers are fake and a declaration was prepared on 24.10.2013 apart from that the signature of one Abdul Mohit who died on 27.09.2013 was shown in the declaration paper.
- v. That not only that the fake thumb impression of one Mahesh Chaudhari was created whereas he was a graduate and thus the document was created with the intention to cheat the workers for own gain and filed it.
- vi. That all the cheatings and forgery has made in collusion with accused no. 3 to get illegal gain to

him.

vii. That it is relevant to bring in the notice of the court that the accused no. 3 is an accused in Ashok Paper Mills P.S. Case No. 165 of 2012 and his anticipatory bail application has been rejected by the learned Sessions Judge on 03.08.2013 vide order passed in A.B.P. No. 1302/12.

viii. Concluding the allegations it is stated that in this manner the accused persons forging the signature of workers wrongly filed the affidavit and declaration in the Hon'ble Supreme Court".

4. Learned counsel for the petitioner submits that the petitioner is the Director of Ashok Paper Mills and there is no allegation of any overt act on the part of the petitioner in creating any forged document for being furnished before the Apex Court and there is only a general and omnibus accusation of collusion. It is stated that as a matter of fact, the Union led by Sharda Yadav was recognized by the State of Bihar who was permitted to represent the views of the workers before the Monitoring Committee as evident from the Committee's report (Annexure-5) submitted before the Apex Court and accepted. It is stated that the claim of Shahnawaz Ahmed Kaiffee claiming to be President of the Mazdoor Panchayat Union was not accepted. It is further stated that as per agreement, the management undertook to pay sum equivalent to 12 months wages to the workers in settlement of all claims and out of which the amount equivalent to 3 months wages had been paid.

5. An affidavit dated 17.10.2013 had duly been filed by the petitioner to the above effect before the Apex Court in reply to I.A. No. 1-2 of 2013 filed in I.A. No. 17 of 2012. Learned counsel

for the petitioner states that such affidavit has also been accepted on record and the matter has since been disposed of. It is therefore submitted that the allegations of forgery are in any event not directly made against the petitioner but against the accused nos. 1 and 2 namely Sharda Yadav and Mahinath Jha.

6. Having regard to the entirety of the facts and circumstances of the case, the provisional anticipatory bail granted to the petitioner by order dated 17.03.2016 by this Court in connection with Ashok Paper Mills P.S. Case No. 182 of 2013 pending in the Court of learned Chief Judicial Magistrate, Darbhanga, is hereby confirmed, with the following conditions:

(i) That one of the bailors shall be a close relative of the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) The petitioner shall cooperate with the investigation and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) The petitioner shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

Md. Ibrarul/BT

(Vikash Jain, J)

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