

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 15236 of 2016

Arising out of P.S. Case No. - 70 Year - 2008 Thana - C.B.I CASE District - PATNA

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Alok Kumar Singh, Son of Late Triveni Prasad Singh, Resident of Village -
Gogari Jamalpur, P.S. Gogri, District - Khagaria

.... Petitioner

Versus

The State of Bihar through the Vigilance

.... Opposite Party

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Appearance :

For the Petitioner

: Mr. Arun Kumar, Advocate

For the Opposite Party

: Mr. Rama Kant Sharma, (L.O, I/C Vigil.)

Mr. Rabindra Kumar, Advocate

A.C. to Law Officer (Vigil.)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

2 02-08-2016

Heard learned counsel for the petitioner as well as

learned counsel representing the Vigilance along with learned

Additional Public Prosecutor.

How unscrupulous litigants put hurdle in smooth functioning of the trial, the present controversy happens to be a glaring example.

Seeking a protection as provided under Section 207 of the Cr.P.C. found duly misused according to their convenience and further, to linger the proceeding under the garb thereof, is further found exposed from own conduct of the petitioner. It is evident from Annexure-6 that perceiving Section 207 Cr.P.C. to be their lifeline, petitioner/accused had approached this Court at an earlier occasion under Cr. Misc. No. 15290 of 2013 and the

same was disposed of vide order dated 13.05.2014. The relevant para is quoted below:-

“Considering the stand of the petitioner as well as the averments made in the counter affidavit filed on behalf of the Opposite Party, the matter is remitted back to the learned Special Judge, Vigilance (Trap), Patna with a direction to once again verify whether all documents as required to be supplied to the accused in terms of Section 173(5) Cr.P.C. have been supplied if they are to be relied upon in course of the trial so that no prejudice is caused to the petitioner in that behalf.”

As, according to learned counsel for the petitioner, the learned lower Court had not acted in pursuance of direction given under order dated 13.05.2014 passed in Cr. Misc. No. 15290 of 2013 (Annexure-6), at successive occasions that means to say vide order dated 01.09.2015 as well as 10.02.2016, therefore, necessitate for filing instant petition.

The learned counsel for the petitioner further submitted that incorporating the fact in order dated 01.09.2015 showing that petitioner had submitted that save and except FSL report, other documents have already been received by him has wrongly been incorporated in the order by the learned lower Court. In likewise manner with regard to incorporating the fact under order dated 10.02.2016 regarding furnishing of Bihar Gazette Notifications previous and present relating to appointment

of Special Judge, Public Prosecutor, Police Officers, Constitution of Vigilance Police Station, Constitution of Vigilance Investigating Bureau, Constitution of Forensic Science Laboratory and nomination of its Director have not been raised in strict sense at the end of the petitioner.

At least, petitioner happens to be fair in annexing Annexure-3 which happens to be a copy of the paper disclosing the relevant documents which has been handed over to the petitioner in accordance with Section 207 of the Cr.P.C. From perusal of the same, it is evident that it bears signature of two persons, one of junior counsel, probably, on behalf of Vigilance dated 02.06.2010 and another dated 24.01.2011. That means to say that after having those documents on record right from 02.06.2010 it was lastly received on 24.01.2011 consuming five months without any explanation why it was not received at an earliest. However, it has got some sort of endorsement (a) FIR is not complete, no complete charge-sheet. Furthermore, 113 pages were received. What were 113 pages, save and except, incorporating with aforesaid endorsements, no remark has been given at the end of the petitioner. From the list of the documents, it is evident that 10 items so incorporated therein including FSL report, Sanction Order, statement of witnesses were furnished. Subsequent thereof,

the real game exposed as, subsequent to that, charge was to be framed which petitioner wants to delay and for that, petitioner began to file petition after petition asking for the documents and further, from the order dated 10.02.2016, it shows the malafide of the petitioner asking for Gazette Notification, best known to the petitioner whether those things really should be made available to the petitioner in terms of Section 207 of the Cr.P.C., the Court has to twice think.

That being so, I do not see it a fit case wherein prayer of the petitioner should be considered to be legally maintainable. Accordingly, instant petition is rejected.

(Aditya Kumar Trivedi, J.)

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