

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1285 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- PATNA

Sarvesh Kumar Tiwari S/o Hrishikesh Tiwari, resident of Shanti Heritage,
Rukanpura, Bailey Road, Patna, P.S. - Rupaspur, District - Patna.

.... Petitioner

Versus

1. The State of Bihar through Director General Economic wing Bihar, Patna.
2. The Director General, Economic Offences Wing, Bailey Road, Bihar, Patna.
3. The Superintendent of Police, Economic Offences Wing, Bailey Road, Patna.
4. The Deputy Superintendent of Police cum Investigator, EOU, Bailey Road,
Patna.

.... Respondents

Appearance:

For the Petitioner : Mr. Sanjay Prasad, Advocate.
For the EOU : Mr. Shri Akhilesh Prasad Singh, Sr. Advocate.
Mr. Rajiv Ranjan Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 15-03-2016

On the basis of confidential information received by
Economic Offences Unit, EOU P.S. Case No. 21 of 2013 dated
10.06.2013 was registered under section 13 (2) read with section
13(1)(e) of Prevention of Corruption Act, 1988 against one
Dharmbir Pandey and investigation was taken up. According to the
First Information Report, the accused Dharmbir Pandey, while
holding the post of District Agriculture Officer, Motihari, had made

properties disproportionate to his known sources of income to the tune of Rs. 1,15,89,065/-. Such assets were found in the form of movable as well as immovable properties existing in the name of his family members.

2. In course of investigation of the aforesaid police case, notices were issued to the petitioner by the investigating officers of the case to explain his conduct in the matter of employment of the wife and the son of aforesaid Dharmbir Pandey in the firm named and styled as Indian Institute of Medical Science being run by the petitioner.

3. By way of preferring the present application under Articles 226 & 227 of Constitution of India, the petitioner seeks a direction to be issued to the respondents to restrain themselves from taking any action against him with regard to the aforesaid EOU P.S. Case No. 21 of 2013.

4. It has been contended by the learned counsel for the petitioner that the petitioner and his wife have got no concern with the alleged offence committed by the aforesaid Dharmbir Pandey and they are being harassed without any rhyme or reason in the name of investigation of the case by the Investigating Agency illegally.

5. On the other hand, learned counsel for the



respondents has submitted that there is no violation of any right of the petitioner inasmuch as the petitioner has been asked to co-operate in the investigation by producing certain documents which will help the investigating agency in coming to a rightful conclusion in the police case lodged against the accused public servant Dharmbir Pandey. It has further been contended that in course of investigation, it has transpired that the petitioner and his wife Vandana have actively abetted the crime. Hence, the police may prosecute them also in the said case with the aid of Section 109 of the Indian Penal Code. It has also been contended that *prima facie*, it transpires that the petitioner is in touch with the accused public servant and appears to be acquainted with the facts and circumstances of the case. He has further contended that act of police officer making an investigation into a cognizable offence asking the petitioner to explain certain aspects of the case is permissible under section 160(1) of the Code of Criminal Procedure.

6. I have heard Mr. Sanjay Prasad, learned counsel for the petitioner and Mr. Akhileshwar Prasad Singh, learned senior advocate for the Economic Offences Unit and perused the record.

7. Admittedly, an offence registered under the Prevention of Corruption Act is under investigation in connection

with the said case. If the investigating agency considers that the petitioner is acquainted with the facts and circumstances of the case and in order to verify the same, it has sought for some explanation from the petitioner, the same cannot be termed to be an arbitrary action on the part of the investigating agency. Even otherwise, to hold investigation into a cognizable offence is the statutory right of police and at this stage the court has no role to play

8. In that view of the matter, I do not find any merit in the present case, Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J.)

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