

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.475 of 2016

Arising Out of RC No.20A of 2012 (Special Case No.14 of 2012) District- PATNA

Lalit Kumar Kothari, son of Late Mathura Das Kothari, resident of Flat No.9B/3, Satyam Towers, 3, Alipore Road, P.S. Alipore, District Kolkata, State- West Bengal.

.... Petitioner/s

Versus

The Central Bureau of Investigation, Anti Corruption Branch, Patna, Bihar

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Advocate

For the Respondent/s : Mr. Sanjay Kumar, S.C. C.B.I.

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

ORAL JUDGMENT

Date: 29-06-2016

The order dated 18th of March, 2016 passed by Special Judge, C.B.I.-III, Patna, is subject matter of challenge in the present petition, whereby an application for discharge submitted by the petitioner under Section 239 of the Code of Criminal Procedure was declined.

2. The petitioner represents M/s Perfecto Electricals, Kolkata who submitted its bid for the work of “Penal Interlocking in Sitamarhi excluding Raxaul-Narkatiyaganj gauge conversion in Samastipur division of EC Railway”. Apart from the petitioner, Sri Shyam Lal Prasad, the then Chief Signal and Telecom Engineer EC Railway Hajipur, was also proceeded against for the reason that Sri Shyam Lal Prasad falsely apprised the tender committee that the site of



work was a difficult site to work being remote location, poor law and order situation, insurgent activities and poor road conditions, store of the work was at Samastipur, quite far from the site of work etc. contrary to the fact that these factors were already covered when rate analysis were done. By giving false justification, the total awarded value of tender was Rs.17.09 crore against the value of tender which was Rs.12.60 crore.

3. A perusal of the order shows that earlier the petitioner filed a petition for quashing which was withdrawn with a liberty to raise all the points at the stage of framing of charge but without permitting the learned Special Judge to frame charge, the petitioner moved an application for discharge. The learned Special Judge has given cogent and detailed reasons as to why no case is made out for discharge. In fact, it appears that the petitioner is making out all efforts to delay the trial on one ground or the other so as to defeat the cause of justice. The finding recorded by the learned Special Judge is that petitioner M/s Perfecto Electricals, Kolkata is an experienced S & T contractor and has executed several works of this nature before in other division of Railways. He was aware of actual price of data logger and SSDAC even though he did not reduce his offered price during negotiation, rather he fraudulently and dishonestly wrote a letter dated 18.11.2008 to CSYTE.CON 1 EC Railway highlighting law and order

problem, maoist, insurgency, remoteness of work place from stores etc. though he was already working in Darbhanga and Sitamarhi project.

4. After going through the order, I do not find that the order passed by the learned Special Judge, CBI III, Patna suffers from any patent illegality or irregularity which warrants interference in the present petition. Still further the earlier petition for quashing of the FIR was withdrawn so as to take all plea at the time of framing charge but the petitioner filed an application for discharge even without permitting the Court to consider the framing of charge just with an intention to delay the proceedings.

5. Therefore, the learned Special Judge, CBI- III, Patna is directed to take steps to conclude the trial in accordance with law expeditiously.

6. With the aforesaid observation and direction, the present writ application is dismissed.

(Hemant Gupta, J.)

Sunil

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