

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4307 of 2016

Arising Out of PS.Case No. -57 Year- 2009 Thana -C.B.I CASE District- PATNA

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Om Prakash Singh son of Late Basanti Lal Singh, resident of village - Chhihattar,
via Maner, P.O. Chhihattar Via Maner, P.S. Maner, District - Patna

.... Petitioner/s

Versus

The State of Bihar through Vigilance, Bihar, Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Naushad Akhtar, Advocate

: Mrs. Anjum Akhtar, Advocate.

For the State : Mr. Jharkhandi Upadhyay, APP

For the Vigilance : Mr. Rama Kant Sharma, Sr. Advocate (Vigilance)

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 27-01-2016

By way of the present application under Section 482 of the Code of Criminal Procedure (for short “Cr.P.C.”), the petitioner seeks quashing of the order dated 4.2.2015 passed in Special Case No. 45 of 2009 arising out of Vigilance P.S.Case No.57 of 2009 by the Special Judge, Vigilance-1, Patna, whereby and whereunder cognizance for the offences punishable under Sections 467, 468, 471, 477A, 420, 409 and 120B of the Indian Penal Code (For short “IPC”) as well as Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 (for short “P.C.Act”), has been taken and process has been issued against the petitioner.

2. It is contended that the petitioner has been falsely implicated in the case. Though the schemes were executed during the period 2003-2004 and 2004-2006, an enquiry was made in May, 2009 and, only on suspicion, the FIR was registered against the

petitioner. Even, in course of investigation, no material could be collected on the basis of which the petitioner could have been sent up for trial, but the learned Special Judge has taken cognizance of the offence merely on conjecture and surmises.

3. On the other hand, Mr. Rama Kant Sharma, senior counsel appearing for the Vigilance, submits that several irregularities were committed in execution of different schemes under the Kita Chauhattar Gram Panchayat. The petitioner was elected Mukhiya of Kita Chauhattar, East Gram Panchayat falling within Maner Block of Patna district, during the relevant time. A preliminary enquiry conducted by the Vigilance Investigation Bureau established that there was a large scale conspiracy and huge amount was defalcated by the Mukhiya of the Gram Panchayat in collusion with other public servants. The FIR was instituted on the basis of an enquiry report submitted by the Deputy Superintendent of Police on 24.2.2009 and the petitioner as also the then Block Development Officer, Junior Engineer of Maner Block, Panchayat Sewak and other concerned were named in the FIR. In course of investigation also several witnesses have supported the allegations made in the FIR.

4. He has further contended that the irregularities and illegalities were made not only in execution of Indira Awas Scheme, but also in distribution of pumping sets amongst the farmers and in

appointment on the post of Siksha Mitra. The investigation further revealed that several forgeries were made in the official documents. He submits that a report under Section 173 of the Cr.P.C. has been filed in the court of Special Judge on the basis of incriminating materials collected against the petitioner and others during course of investigation and hence, the order taking cognizance of the offences is neither bad in law nor perverse.

5. I have heard learned counsel for the parties and examined the report. I find substance in the arguments advanced by the learned counsel appearing for the Vigilance.

6. The allegations made in the FIR do attract ingredients of a cognizance offence under the IPC and the P.C.Act. It would be apparent from the impugned order passed by the learned Special Judge, Vigilance-1, Patna, that during investigation several witnesses have supported the allegations made in the FIR. In that view of the matter, I find no illegality in the order impugned.

7. Accordingly, the application, being devoid of any merit, is hereby dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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