

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.517 of 2015

Arising Out of PS.Case No. -null Year- null Thana -null District- VAISHALI(HAJIPUR)

Ashok Kumar Mishra son of Late Yamuna Prasad Mishra, resident of village-
Chandsarai, P.O.- Chandsarai, P.S.- Mahua, District- Vaishali

.... Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Government of Bihar, Patna
2. The Inspector General of Police, Tirhut Division, Muzaffarpur at Muzaffarpur
3. The Deputy Inspector General of Police, Tirhut Division, Muzaffarpur at Muzaffarpur
4. The Superintendent of Police, Vaishali, District- Vaishali
5. The Deputy Superintendent of Police, Vaishali, District- Vaishali
6. The Sub Divisional Police Officer, Hajipur Sub Division, District- Vaishali at Hajipur
7. The Officer-in-charge, Vaishali Police Station at Vaishali, District- Viashali
8. The Investigating Officer, Vaishali Police Station at Vaishali, District- Vaishali
9. The District Magistrate, Vaishali at Hajipur
10. The Block Development Officer, Vaishali Block at Vaishali, District- Vaishali
11. The Superintendent of Police, Vigilance, Patna
12. The Deputy Development Commissioner, Vaishali at Hajipur
13. The Certificate Officer, Vaishali at Hajipur

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajesh Ranjan, Advocate

: Dr. Anupam Sinha, Advocate

For the State : Mr. Manoj Kumar Jha, A.C. to G.P.-26

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-05-2016

The present writ petition has been filed for quashing of Vaishali P.S. Case No.299 of 2014 registered under Sections 406 and 420 of the Indian Penal Code on the ground that for the same offence another case vide Vigilance P.S. Case No.36 of 2008 has been instituted under Sections 409, 420, 467, 468, 471 and 120B of the Indian Penal Code as also under Section 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 against the

petitioner.

2. It has been contended by the learned counsel for the petitioner that the second FIR for the same set of occurrence is bad in the eye of law. It is well settled principle of law that a person cannot be put on trial twice for the same offence. It is further contended that the petitioner had no role in the purchase made during financial years 2008-2009 and 2009-2010.

3. On the other hand, learned counsel for the State has contended that from perusal of the two FIR it would be evident that both the cases, that is, Vigilance P.S. Case No.36 of 2008 and Vaishali P.S. Case No.299 of 2014 relate to different period and in both the FIRs allegations have been made against the petitioner that he has defalcated public money by misusing his official position.

4. I have heard learned counsel appearing for the parties and perused the materials available on record.

5. From perusal of the first FIR, that is, Vigilance P.S. Case No. 36 of 2008, it would be evident that the allegations against the petitioner relate to defalcation of public money while discharging his official duty as Panchayat Secretary during financial years 2006-2007 and 2007-2008 whereas from perusal of the second FIR, that is, Vaishali P.S. Case No.299 of 2014, it would be evident that allegations have been made in respect of defalcation of public money

during financial years 2007-2008, 2008-2009 and 2009-2010.

6. It is true that financial year 2007-2008 is common in both the FIRs. However, in the second FIR the allegations have also been made in respect of irregularity and illegality committed in purchase of solar lamp during financial years 2008-2009 and 2009-2010.

7. In that view of the matter, this Court is of the opinion that the allegations made in the two FIRs cannot be said to be common. They relate to different period and the allegations do attract ingredients of a cognizable offence. Furthermore, the defence of innocence taken by an accused cannot be made a ground for quashing of the FIR. At the stage of investigation, it is for the police to come to a conclusion whether or not the accusation made in the FIR against an accused is true.

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

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	
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