

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51799 of 2015

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

Vijay Kumar, S/o Late Jhulan Singh, resident of village- Bhelwa, P.O. + P.S.-
Hasua, District- Nawada, presently posted as Karmchari Halka No.-1, Block-
Sirdala, District- Nawada.

.... Petitioner

Versus

The State of Bihar through Vigilance Department, Bihar, Patna

.... Opposite Party

Appearance :

For the Petitioner/s : Mr. Bankey Bihari Singh, Advocate

For the Opposite Party/s : Mr. Ramakant Sharma, I.O., I/C

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 09-05-2016

By way of the present application preferred under
Section 482 of the Code of Criminal Procedure, 1973 (for short
“CrPC”), the petitioner seeks quashing of the order dated 14th
September, 2015 passed by the learned Special Judge, Vigilance
(Trap), Patna in Special Case No. 6 of 2015, whereby the
application for discharge under Section 239 of the CrPC filed by
the petitioner has been rejected.

2. The petitioner has been made named accused
in Vigilance Case No. 12 of 2015 registered under Sections 7 and
13(2) read with 13(1) (d) of the Prevention of Corruption Act.
From the order impugned, it would be evident that the raiding



team of the Vigilance had caught the petitioner red-handed while accepting illegal gratification from one Bhola Rabidas, who had earlier made allegation against him that he was demanding bribe for mutation of his land. The aforesaid allegation was verified by the Vigilance Sleuths, who found the allegation to be true, whereafter a pre-trap memorandum was prepared and a trap team was constituted. When the petitioner demanded Rs.16,000/- as illegal gratification and accepted the same, the raiding party swung into action and arrested the petitioner. A post-trap seizure memo was prepared and other formalities during investigation were completed. On completion of investigation, charge-sheet was submitted by the Vigilance police before the learned Special Judge, who took cognizance of the offence. At the stage of framing of charge, the petitioner filed an application under Section 239 of the CrPC seeking discharge, which has been rejected vide impugned order dated 14th September, 2015.

3. The contention of the petitioner is that he is innocent and on the date of filing the complaint no application of the complainant was pending before him for mutation and hence, there was no occasion for the petitioner either to demand or to accept illegal gratification.

4. In my opinion, the grounds taken by the

petitioner for seeking discharge are question of fact which can be determined by the trial court only after the parties lead their evidence.

5. Regard being had to the overwhelming evidence against the petitioner, the learned Special Judge has rightly rejected the application for discharge filed by the petitioner.

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

(Ashwani Kumar Singh, J.)

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