

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.33973 of 2014

Arising Out of PS.Case No. -304 Year- 2014 Thana -KHAGARIA District- KHAGARIA

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Namit Kumar @ Mukesh Kumar @ Bhutani, Son of Sri Dharnidhar Prasad
Resident of Village - Sanhouli, P.S. - Chitragupt Nagar, District - Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Vigilance Bihar Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Kishore Kunal, Advocate.
		Mr. Ram Narain Brahmchari, Advocate.
For the State	:	Mr. Ajay Kumar No. 1, APP
For the Vig.	:	Mr. Santosh Kumar Pandey, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 18-08-2017

Heard learned counsel for the parties.

2. The petitioner has filed this quashing application under Section 482 of the Code of Criminal Procedure, 1973 for setting aside cognizance order dated 19.07.2014 as well as order dated 31.10.2014 whereby discharge petition filed by the petitioner under Section 239 Cr.P.C. was rejected by the Special Judge, Vigilance-II, Patna in Special Case No. 46 of 2014 arising out of Khagaria P.S.Case No. 304 of 2014.

3. Learned counsel for the petitioner submits that Sections 7, 8 and 9 of the Prevention of Corruption Act, 1988 (hereinafter referred to as the 'Act') are not attracted against the petitioner, who is not a public servant, even if it is assumed that the petitioner worked as



a broker in the District Transport Office, no offence is made out against him.

4. Whereas, learned counsel appearing on behalf of the Vigilance submits that there is enough material against the petitioner in the case diary to show that this petitioner used to accept illegal gratification on behalf of the officers and employees of the District Transport Office for issuing driving licence not only that rather many incriminating documents like driving licence in names of various persons, challans in the name of D.T.O., Voter I-cards and Rs. 12,500/- cash were recovered from his possession. However, he submits that though Section 7 of the Act is exclusively applicable in case of a public servant but rest other sections 8 and 9 of the Act are applicable in case of any person who accepts illegal gratification in order to influence any public servant to show favour or disfavour to any person and also to accept or agrees to accept or attempts to obtain any gratification for himself or for any other person with a motive or reward to influence any public servant.

5. Having considered rival submissions and on perusal of the materials on record inclusive the case diary, the Court is of the view that a *prima facie* offence is made out against the petitioner. Sections 8 and 9 of the Act is categorical that whoever accepts or obtains or agrees to accept, or attempts to obtain, from any person, for



himself or for any other person, any gratification whatever, as a motive or reward for inducing, by corrupt or illegal means, any public servant, whether named or otherwise also, then this offence is attracted even taking or attempt to obtain from any person for exercise of personal influence with public servant is also an offence. In the present case, there is sufficient material in the case diary, consisting statements of witnesses stating giving of extra money to the petitioner, a broker, for gratification of concerned staffs of the District Transport Office for issuance of driving licence. The report of the trial court also shows that even charge has been framed and witnesses too have been examined in this case, so finding no merit, this application stands dismissed for the aforesaid reasons.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
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