

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45512 of 2012

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Arun Kumar Singh Son of Krishnadeo Singh, resident of Mohalla-
Vishwanath Nagar, P.S. Begusarai, District- Begusarai.

.... Petitioner

Versus

The State of Bihar Through CBI, ACB, Patna

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Sanjay Kumar Azad, Advocate.

For the Opposite Party : Mr. Bipin Kumar Sinha (SCCBI)

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**
ORAL ORDER

3 17-04-2017 The instant Criminal Miscellaneous has been filed

against the order dated 10.05.2012, whereby and whereunder, the

discharge petition filed by the petitioner was rejected in Special

Case No. 63/11 (5/10- old) arising out of RC 15A/10 by the

Special Judge, CBI, 1st, Patna.

Heard the learned counsel for the petitioner and the

learned counsel for the CBI.

On the basis of the complaint lodged by Raja Babu

Kumar that he had applied for the Kishan Credit Card in the

Khirubigha Branch of the Punjab National Bank in the district of

Nalanda and the complainant met the Branch Manager who asked

him to meet the cashier and the cashier (petitioner) explained the

entire process and assured him to do the work and demanded Rs.

1,000/- bribe and as Mr. Kumar did not want to pay the bribe

hence lodged the written complaint and then a trap team was

organized, preliminary memorandum was prepared and thereafter



the petitioner was arrested accepting bribe of Rs. 1,000/- from the complainant. Thereafter, recovery memorandum, search list and the arrest memo were prepared on which all the team members put their signatures.

After completing investigation charge sheet was submitted and accordingly cognizance was taken. Thereafter, the petitioner filed petition under section 207 of the Cr.P.C. for supply of documents which was also rejected by order dated 29.11.2011. The said order was challenged in Cr.W.J.C. No. 58 of 2012, but the Hon'ble Court dismissed the application stating that the petitioner has alternative and efficacious remedy available in law under the code of Criminal Procedure. Thereafter the learned court below refused to discharge the petitioner and hence this Criminal Miscellaneous.

Submission is that there is no ground for proceeding against the petitioner, there is no independent witness, there is difference between the time of the FIR and the time of search and as such on this ground framing of charge is groundless. There is no verification report regarding the demand of bribe, continuation of the proceeding will be abuse of the process of law and as such it is fit to be dismissed.

The learned counsel for the CBI, on the other hand, submits that there is no illegality or impropriety in the impugned



order. The learned Judge after considering the materials available in the case diary has found that prima-facie there is sufficient materials available to frame the charges against the accused-petitioner. The prosecution has claimed to prove the charges against the accused through oral and documentary evidences, so prosecution must be given an opportunity to prove the charges through the competent witnesses. Without framing of charges against the accused person this cannot be done.

The petitioner is the sole accused and he is named in the FIR. The petitioner was caught red handed accepting the bribe amount of Rs. 1000/- from the complainant for facilitating the complainant KCC loan. After investigation charge sheet against the accused under sections 7 and 13 (2) read with section 13 (1) (d) of the Prevention of Corruption Act, 1988 was filed and accordingly after perusal cognizance was taken.

The defence of the accused that there is no independent witness cannot be looked into at this stage. The discrepancies in the FIR and in the seizure list can also be looked into during trial and not at this stage and as such finding no merit in this Criminal Miscellaneous, the same is hereby dismissed.

Abhay/-

(Jitendra Mohan Sharma, J)

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