IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.25521 of 2013

Arising Out of PS.Case No. -7 Year- 2002 Thana -C.B.I CASE District- PATNA

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1. Achal Kumar Rana, S/O Ramdeo Rana, resident of village- Bhatolia, P.S.- Meenapur, District- Muzaffarpur, presently posted as Circle Inspector, Patna Sadar Anchal Office Block, in the district of Patna

.... Petitioner/s

Versus

1. The State of Bihar through its Cabin Vigilance Department, Vigilance Investigation Bureau, Circular Road, Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umakant Shukla, Advocate
Mr. Sanjeev Kumar, Advocate

For the Opposite Party/s : Mr. Rama Kant Sharma, Law Officer, Vigilance

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

CAV JUDGMENT

Date: 02-02-2017

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 06.05.2013 passed by the Special Judge, Vigilance, 1st, Patna, in Special Case No.21 of 2002 arising out of Vigilance Case No.07 of 2002, by which the Court below has rejected the petition filed by the petitioner under Section 227 of the Code of Criminal Procedure for his discharge.

2. It has been submitted on behalf of the petitioner that entire financial affairs was used to be handled by Mr. Ashok Kumar Singh, and any other person had hardly any say in the matter. Both the NGOs were pocket institutions/organizations of Sri Ashok

Kumar Singh, IAS, and he had associated so many persons closed to him and taking advantage of their bonafide belief he used to do anything what he wished and no one had any say in the matter.

3. It has further been submitted by learned counsel that one of the co-accused, Ashok Kumar Singh, had filed Cr.W.J.C. No.352 of 2002 in this Court and a co-ordinate Bench of this Court had been pleased to quash the First Information Report against him against which order State of Bihar had filed appeal in the Supreme Court vide Criminal Appeal No.1615 of 2013, and the same was dismissed by judgment dated 09.07.2014.

4. Counsel for the Vigilance submits that the court below after proper consideration of merits of the case has rejected the petition dated 22.12.2002 filed by the petitioner to discharge him in this case. The petitioner was the Joint Secretary of the NGO, Green Earth India and the Treasurer of Samvedna. The bank accounts were opened under the signature of the petitioner and the accounts were operated with his signature along with others and huge amounts were withdrawn by the petitioner for which no proper accounting was made and money has been misappropriated.

5. Having heard the parties, perusal of the impugned order and the materials available in the Case Diary including the allegations made against this petitioner, it appears that the First Information Report was registered against the petitioner and others under Section(s) 420, 465, 466, 467, 471, 477-A, 201, 109, 120-B Indian Penal Code and Sections 13(1) (d) read with 13(2) of the Prevention of Corruption Act.

6. The petitioner is named in the First Information Report. There is specific allegation against this petitioner that he in connivance with other accused established NGO, namely, Samvedna and Green Earth India. He was Joint Secretary of NGO, Green Earth India and the Treasurer of Samvedna. Bank accounts were opened under the signature of the petitioner. Huge amounts were withdrawn by the petitioner from the account of both the NGO for which no proper accounting has been made and the money has been misappropriated.

7. Section 227 of the Code of Criminal Procedure clearly lays down :

> "If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing."

8. Hon'ble Supreme Court in the case of ***Union of India Vs. Prafulla Kumar Samal and another*** reported in ***(1979) 3 SCC 4*** has decided that:

> "The Judge has merely to sift the evidence in order to find out whether or

> not there is sufficient ground for proceeding against the accused. The sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the documents produced before the court which ex-facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him."

9. From the impugned order and the materials available on record, it appears that the learned Special Judge has given justifiable reasons that there are sufficient grounds for proceeding against the accused persons under Section(s) 420, 466, 467, 471, 201, 109, 120-B Indian Penal Code & Sections 13(2) read with 13(1) (d) of the Prevention of Corruption Act.

10. Therefore, this Court does not find any illegality in the impugned order dated 06.05.2013 passed by the Special Judge, Vigilance, 1st, Patna, in Special Case No.21 of 2002 arising out of Vigilance Case No.07 of 2002.

11. The application is, accordingly, dismissed.

12. The Trial Court is directed to proceed with the trial in accordance with law.

(Sanjay Priya, J)

J.Alam/-

AFR/NAFR	**AFR**
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