

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32273 of 2014

Arising Out of PS.Case No. -44 Year- 2012 Thana -HABIBPUR District- BHAGALPUR

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Kanhaiya Choudhary S/o Suresh Prasad Choudhary resident of village-
Mohif Ali Chowk, P.S.- Habibpur, District- Bhagalpur

.... Petitioner

Versus

The State of Bihar Through Vigilance, Patna, Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Shiwesh Chandra Mishra, Advocate

For the Vigilance : Mr. Santosh Kr. Pandey, Advocate

A/C to Mr. Ramakant Sharma, Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

2 05-07-2017

Heard learned counsel for the parties.

The petitioner challenges the order taking cognizance dated 24.03.2014, passed by Special Judge, Vigilance-II, Patna in Special Case No.31/12, arising out of Habibpur P.S. Case No.44/12 whereby cognizance of the offence has been taken under Sections 7/8 of the Prevention of Corruption Act, 1988.

Learned counsel for the petitioner challenges the order taking cognizance on two grounds. First, that there is no any allegation against the petitioner of taking bribe for getting the funds sanctioned for Indira Awas Yojana secondly, petitioner is not a public servant, therefore, the alleged offence is not attracted against him whereas learned counsel appearing on behalf of the Vigilance submits that there is specific allegation in the First Information Report against the petitioner that he played a role of middle man and



bribed the ward member a public servant in order to get the allotment in favour of beneficiaries named in the First Information Report itself. Moreover, according to Section 8 of the Prevention of Corruption Act, 1988, any person who accepts or obtains any gratification from any person for himself or for any other person for doing any official act in the exercise of the official function of such public servant to show him favour or disfavour, this section is attracted.

Having considered the rival submissions of both sides, I find that there is specific allegation in the First Information Report that this petitioner, though not a public servant, played role of a middle man and as per allegation bribed a ward member another co-accused for sanctioning funds under Indira Awas Yojana in favour of beneficiaries named in the First Information Report so there is no any illegality in the order taking cognizance dated 24.03.2014, passed by Special Judge, Vigilance-II, Patna in Special Case No.31/12, arising out of Habibpur P.S. Case No.44/12.

The quashing application stands dismissed.

(Arun Kumar, J.)

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