

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19629 of 2014

Arising Out of PS.Case No. -44 Year- 2013 Thana -C.B.I CASE District- PATNA

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Upendra Sharma S/o Late Siya Saran Sharma Resident of Village Raghunathpur,
P.S- Paliganj, District- Patna, at present Headmaster Incharge Damodar High
School, Raghunathpur, P.S- Paliganj, District- Patna.

.... Petitioner

Versus

The State of Bihar (through Superintendent of Police-cum-I.O. Vigilance
Department, Investigation Bureau, Patna)

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Sanjeev Nikesh

For the Vigilance : Mr. Arvind Kumar

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 07-07-2017

The petitioner seeks quashing the order dated
17.09.2013 passed by Special Judge Vigilance 1, Patna in Special
Case No. 49 of 2013 whereby and whereunder the learned Special
Judge took cognizance under Section 7/13 (2) read with Section
13(1)(d) of the Prevention of Corruption Act.

2. Heard both sides.

3. The informant of this case is Deputy Superintendent of
Police-cum-S.H.O of Vigilance Investigation Bureau. On the



complain of one Gaurvi Ranjan regarding demand of bribe of Rs. 2000/- by this petitioner for releasing an amount of Rs. 10,000/- under the Chief Minister's Encouragement Scheme, a trap was led after verification and preparation of pre trap memorandum. As per plan, the raiding party apprehended the petitioner while accepting the bribe of Rs. 2000/- from said Gaurvi Ranjan.

4. The learned counsel for the petitioner submits that the present case has been lodged at the instance of one Sanjay Kumar Sinha, who was a clerk in Government Damodar High school, Raghunathpur where the petitioner was incharge Headmaster of the same school. The petitioner had lodged Paliganj P.S. Case No. 160 of 2013 for the offence under Sections 467, 468, 471 and 420 of the Indian Penal Code against the said clerk as he had committed fraud and forgery in submitting forms of some of the students for registration on the basis of forged signature of the Headmaster. A departmental proceeding was also initiated by District Education Officer, Patna against the said clerk, Sanjay Kumar Sinha under Memo No. 5922 dated 05.06.2013. The informant of this case allegedly conducted raid and recorded the statement of two Rahul Kumar and Kumar Gaurav, who are son of brother-in-law and son-in-law of the said clerk. The Vigilance has not inquired about the



relationship of witnesses with the said clerk. The trap was allegedly led in a densely populated area from where no independence witness has been examined. The learned Special Judge without evaluating the materials available on record passed the order in a mechanical manner and so, the order is fit to be quashed.

5. The learned Special APP for the vigilance Department, on the other hand, opposed the submissions.

6. On perusal of the prosecution report and annexures enclosed with this application, I find that on the petition of a student regarding demand of bribe by the petitioner, a raiding party was constituted led by Maharaj Kanishk Kumar, Deputy Superintendent of Police Vigilance. Thereafter, pre-trap memorandum was prepared and the currency notes were dipped into phenolphthalein powder and the petitioner was caught red handed with the said currency. The persons who were present at the time of raid witnessed the occurrence. The learned Special Judge being satisfied with the process of the conducting trap and materials available on record rightly took cognizance under the aforesaid sections. At this stage, the petitioner has no locus standi to challenge the competency of witnesses.



7. In view of the discussions made above, I do not find any merit in this application. This Criminal Miscellaneous application is, accordingly, dismissed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.07.17
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