

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.13050 of 2014

Arising Out of PS.Case No. -16 Year- 2003 Thana -C.B.I CASE District- PATNA

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Acharya Shaukat Khalil, Managing Director Cum Secretary, Mithila
Minority Dental College And Hospital S/O Late Khalil Ahmad R/O
Mansuk Nagar, Ekmi Ghat, P.S. - Laheriasarai, District - Darbhanga

.... Petitioner

Versus

The State Of Bihar through the Cabinet Vigilance, Patna

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Shailesh Kumar, Advocate
Mr. Ashhar Mustafa, Advocate

For the Vigilance : Mr. Ramakant Sharma, Sr. Advocate
Mr. Rabindra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 16-08-2017

Heard Sri P.K. Shahi, learned Senior Advocate
assisted by Sri Ashhar Mustafa, learned advocate on behalf
of the petitioner and Sri Ramakant Sharma, learned Senior
Advocate assisted by Sri Rabindra Kumar, on behalf of the
Department of Vigilance.

The petitioner in the present case is seeking
quashing of the First Information Report bearing Special
Case No. 07/2003 arising out of Vigilance P.S. Case No.
16/2003 for the offences under Section Sections 420, 465,
467, 468, 471, 477(A), 201, 109 & 120B of the Indian Penal
Code read with Section 13(2) and Section 13(D) of the



Prevention of Corruption Act, 1988.

It appears that the present case was registered on 13.03.2014 when the matter was still under investigation. At this stage, when the matter was taken up for disposal, this Court has been informed that the Vigilance has already completed investigation in the matter and has submitted a charge-sheet on which cognizance has been taken by the learned Special Judge, Vigilance, Muzaffarpur and summons have been issued to the accused/petitioner.

Learned Senior counsel on behalf of the petitioner has drawn attention of this court towards an Interlocutory Application bearing No. 595/2017, by which the petitioner has sought to challenge the order taking cognizance and issuance of summon dated 04.01.2017 passed by learned Special Judge, Vigilance, Muzaffarpur by which cognizance of the offences under Sections 420, 465, 467, 468, 471, 477(A), 201, 109 & 120B of the Indian Penal Code read with Section 13(2) and Section 13(i)(d) of the Prevention of Corruption Act, has been taken.

In the opinion of this court, the present criminal miscellaneous application has been become



infructuous inasmuch as after completion of investigation now a charge-sheet has been submitted and thereupon cognizance has already been taken and summons have been issued to the accused-petitioner.

In the present proceeding, the Interlocutory Application cannot be entertained as it is altogether fresh cause of action and there is no provision to entertain an Interlocutory Application in the criminal proceeding to amend the pleadings which is normally available in the cases of civil nature coming under ordinary and plenary jurisdiction of the court/civil court.

The Interlocutory Application No. 595/2017 is, therefore, dismissed. As a result thereof, the application is rendered infructuous.

The petitioner, if so advised, will have a liberty to challenge the order taking cognizance and issuance of summons in accordance with law.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.08.2017
Transmission Date	19.08.2017

