

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.9135 of 2015

Arising Out of PS.Case No. -38 Year- 2012 Thana -C.B.I CASE District- PATNA

Prakash Chandra Rai S/o Late Chakradhar Rai Resident of Village -
Chandheri, P.S. - Sabour, District - Bhagalpur.

.... Petitioner/s

Versus

The State of Bihar Through The Vigilance Investigation Bureau, Patna

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajendra Kumar Jain

For the Opposite Party/s : Mr. Ramakant Sharma(L.O.,I/C Vig.)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 08-05-2017 Heard learned counsels for the petitioner,
Vigilance and learned A.P.P. for the State.

The present application has been filed for quashing the order dated 28.05.2014 passed by learned Special Judge, Vigilance-II, Patna in Special Case No. 17 of 2012, arising out of Vigilance P.S. Case No. 38 of 2012, whereby the processes were directed to be issued after cognizance being taken for the offences under Sections 167, 465, 466, 471, 120B of the Indian Penal Code and Sections 7/13(1)(A) of the Prevention of Corruption Act.

The prosecution case is that one Rita Devi filed a complaint before the Police Inspector, Vigilance, Bhagalpur alleging therein that her name was not recommended



for being engaged as Sahayika in the Aam Sabha of the Gram Panchayat as she could not make payment of Rs. 20,000/- as demanded by the petitioner being working as In-charge, Panchayat Secretary along with Panchayat Mukhiya. The petitioner, though at the relevant time was posted as Revenue Karamchari.

It is submitted by learned counsel for the petitioner that for the occurrence of 12.03.2007 to 24.08.2007, the F.I.R was registered on 16.05.2012. The written complaint lodged by the Rita Devi is not on the record. The engagement of Rita Devi as Sahaiyika was ultimately been cancelled by the authorities.

It is submitted by learned counsel for the Vigilance that on conclusion of the investigation, the investigating agency submitted final form/charge-sheet along with the sanctioned order and on perusal of the sanctioned order and the case diary, learned Special Judge, Vigilance-II, Patna directed for issuance of process against the petitioner after taking cognizance for the offences under Sections 167, 465, 466, 471, 120B of the Indian Penal Code and Sections 7/13(1)(A) of the Prevention of Corruption Act. Moreover, there is nothing on record to suggest the present stage of the case.

It is submitted by learned counsel for the



petitioner that charge has still not been framed in the matter.

Considering the rival submissions of the parties, this Court finds that at the stage of exercising jurisdiction under Section 190(1)(b) of the Code of Criminal Procedure, learned Magistrate has only to see that prima facie case is made out. At this stage, the Magistrate has advantage of going through the materials collected during investigation being brought on record through the report under Section 173(2) of the Code of Criminal Procedure. This is not the case of the petitioner that learned Special Judge, Vigilance-II, Patna has not applied his judicial mind while passing the impugned order. Moreover, there is nothing on record to suggest the present stage of the case.

Accordingly, the application is disposed of with liberty to the petitioner to raise all the contentions at the appropriate stage of proceeding.

It is expected from the learned Court below to be not prejudiced by the order of this Court while considering the contentions of the petitioner.

(Dinesh Kumar Singh, J)

Shageer/-

U		T	
---	--	---	--

