

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50624 of 2014
Arising Out of PS.Case No. -21 Year- 2008 Thana -C.B.I CASE District- PATNA

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Mithilesh Kumar Sinha S/o Late Tatkeshwar Prasad Resident of Village
Suhia, Police Station Shahpur, District Bhojpur.

.... Petitioner

Versus

The Union of India through Superintendwent of Police, C.B.I. A.C.B.,
Patna at Circular Road, P.O. Secretariat, District Patna (Bihar).

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Amit Anand, Advocate

Mr. S.R.C. Pandey, Advocate

For the Opposite Party/s : Mr. Bipin Kumar Sinha (SC/CBI)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 27-11-2017

Heard learned counsel for the petitioner and

learned Standing Counsel representing the Central Bureau of

Investigation.

2. The petitioner, in the present case, is seeking

quashing of the order dated 25.07.2012, passed by learned

Special Judicial Magistrate, C.B.I., Muzaffarpur in R.C. 21(S) of

2008, by which the learned Court has been pleased to take

cognizance of the offences under Section 420 read with

Section 120B of the Indian Penal Code.

3. Learned counsel for the petitioner submits that



there is no enough material against the petitioner in the present case and the belittle kind of material which has come against the petitioner are not sufficient to proceed against him. Learned counsel also submits that in the present case cognizance has been taken though sanction was not obtained.

4. On the other hand, learned counsel for the Central Bureau of Investigation submits that on his own submission of the petitioner that there are belittle materials against the petitioner, the present application is fit to be dismissed, because at the stage of cognizance, the Court is not required to look into the sufficiency of the materials for the purpose of conviction.

5. Learned counsel further submits that, in the present case, charges have already been framed against seven accused persons, and only because the petitioner was not present on the date fixed for framing of charge, the charges could not be framed against him, and so far as he is aware, a non-bailable warrant has been issued against the petitioner for his non-appearance.

6. So far as question of sanction is concerned,



learned counsel for the C.B.I. submits that in the nature of allegations there would not be any requirement of sanction because the allegations against the petitioner are not in relation to an act or omission committed by him in course of discharge of his official duties so as to require sanction.

7. I have heard learned counsel for the parties and perused the records, if the submission of the learned counsel for the petitioner is taken on its face value, it is evident that there are some materials against the petitioner, though, according to him, those materials are not sufficient to proceed against the petitioner. This Court is not going to re-appraise or re-appreciate the materials on the basis of which a *prima facie* case has been found and the petitioner has been summoned.

8. The order taking cognizance is of the year 2012. The quashing application came to be filed after 2 ½ years against the said order, and at this stage, the case has also proceeded and is fixed for framing of charge which the petitioner is said to be avoiding. If the allegations, as has been brought against the petitioner, are considered as it is, the



submission of learned counsel for the Central Bureau of Investigation as to requirement of sanction, may have some force. Though the issue is not being adjudicated at this stage.

9. In the aforesaid facts and circumstances, I am not inclined to interfere with the impugned order. This application is, accordingly, dismissed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
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