

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.19513 of 2014

Arising Out of PS.Case No. -70 Year- 2010 Thana -C.B.I CASE District- PATNA

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Chandra Mohan Ram S/o Late Shankar Ram R/o Village- Dhabauli, Nautola, P.S-
Mufassil, District- Begusarai.

.... Petitioner

Versus

The State of Bihar through Vigilance

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh

For the Vigilance : Mr. Ramakant Sharma

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 22-06-2017

Heard both sides.

2. The petitioner has filed this application under Section 482 Cr.P.C. for quashing of the order dated 20.09.2013 passed by Special Judge, Vigilance-II, Patna in Special Case No. 26 of 2010 whereunder cognizance has been taken for the offence under Section 467, 468, 466, 477A, 120B, 420, 201 of the Indian Penal Code read with Section 7/13(2), 13(1) (d) of the Prevention of Corruption Act, 1988 against this petitioner and three others.

3. The facts in brief is that one Ajay Kumar Singh filed a Complaint Case No. 28 of 2007 on the file of Special Judge, Vigilance-II at Patna, alleging inter alia that the accused persons



cited in the complaint petition committed offence of fraud and also demanded and took illegal money by way of gratification in lieu of payment of compensation for the land acquired by the State Government. In this Case, the Government officials and some private persons were arrayed as accused. It has further been alleged that the persons whose land was acquired by the State Government for construction of railway bridge made complaint that the Land Acquisition Officer with the help of his office assistant has demanded illegal gratification for payment of compensation amount. An another person namely, Sanjay Kumar Singh also made complaint on 30.08.2008 alleging that an amount of Rs. 2,55,600/- awarded in his favour for acquisition of his land measuring 1 Bigha 5 Katha, but the amount was fraudulently encashed by Ramashish Yadav, a clerk of the Land Acquisition Office by playing fraud upon him. The said Ramashish Yadav got an account of complainant opened in the Begusarai Central Co-operative Bank Ltd. in which Chandra Mohan Ram had identified the complainant Sanjay Singh at the time of opening of account. After investigation, the Investigating Officer submitted charge-sheet against the accused persons and the learned Special Judge passed the impugned order taking cognizance against this petitioner as well as some other co-accused.



4. Learned counsel for the petitioner submits that the court below has not applied his judicial mind while passing the order taking cognizance against him. As per impugned order, it is apparent that this petitioner Chandra Mohan Ram is not a public servant rather he is an advocate clerk in Begusarai Civil Court, but even then cognizance has been taken against him under different provisions of Indian Penal Code as well as Section 7/13(ii) read with 13(1)(d) of the Prevention of Corruption Act. This fact sufficiently establishes that the court below while passing the order has not taken pain to consider this aspect of the matter as to whether the provisions of Prevention of Corruption Act is applicable in case of this petitioner or not. The allegation of misappropriation of Rs. 2,55,600/- is specific against Ramshish Yadav, Assistant of Land Acquisition Office. In the entire episode role of the present petitioner is only to the extent that an account was opened in the name of the complainant, Sanjay Kumar Singh in which this petitioner had identified him as a person for opening the account. The learned counsel referred Paragraph-10 of this Criminal Miscellaneous Application and stated that in Paragraph-53 of the case diary, the complainant has specifically stated that he has no grievance against this petitioner rather in a very specific word on question being asked by the Investigation Officer, he has



clarified that in withdrawal of money Chandra Mohan Ram has not committed any wrong with the complainant rather he had identified the thumb impression put by him for opening the account on his instruction. In the above background, the learned counsel prays to quash the impugned order with respect to this petitioner.

5. The learned APP for the State although opposed the submission made on behalf of the petitioner, but he concedes to this fact that this petitioner had simply identified the complainant at the time of opening the account with the bank.

6. On perusal of impugned order as well as annexures available with the record, I find that this petitioner is not a public servant. He is an advocate clerk at Civil Court, Begusarai. He had introduced the complainant Sanjay Kumar Singh at the time of opening of an account with Begusarai Central Co-operative Bank Ltd. The allegation of misappropriation of money is specific against other accuseds including an Assistant of Land Acquisition Office. The order taking cognizance against this petitioner is apparently against the materials on record.

7. As such, the impugned order with regard to this



petitioner is not sustainable in the eyes of law. This Criminal
Miscellaneous Application is allowed and cognizance order with
respect to this petitioner is quashed.

(Sanjay Kumar, J)

ajaypd./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.06.2017
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