

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 556 of 2017**

- Shubh Narayan Pathak S/o Late Narsingh Pathak, Aged About 60 Years Presently Working As Executive Engineer, P. M. G. S. Y. R/o Dev Nandan Nagar, Phase 1, Sarkanda, Police Station Sarkanda, Seepat Road, District Bilaspur, Chhattisgarh.

---- **Petitioner****Versus**

1. State of Chhattisgarh Through Anti Corruption Bureau A. C. B Raipur, District Raipur, Chhattisgarh.
2. Superintendent Of Police, Anti Corruption Bureau, Raipur, Chhattisgarh.
3. R. N. Singh Sengar, Inspector, Anti Corruption Bureau, Raipur, Chhattisgarh.

---- **Respondents**

For Petitioner	:	Shri N. Naha Roy, Advocate
For Respondents-State	:	Shri Anupam Dubey, Dy. GA for the State

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****13/12/2017**

1. Heard.
2. The instant petition is for quashing the charge-sheet filed under Sections 13 (1) (e) & 13 (2) of the Prevention of Corruption Act, 1988 and also for quashing the criminal proceedings which emanated from the crime No.24/16 by the Anti Corruption Bureau, Raipur (C.G.) (for short ' the ACB').
3. Learned counsel for the petitioner would submit that respondent No.3 R.N. Singh Sengar, who was the Inspector in the Anti Corruption Bureau, Raipur though was posted at Raipur, projected himself to be the officer placed at

Bilaspur and conducted the raid without obtaining any permission from the Bilaspur competent Court though a Court for this purpose is also placed at Bilaspur. He would further submit that the petitioner has filed documents which would show that the petitioner relations have considerable income but those were not considered separately. He further referred to a letter dated 08.04.2016, wherein respondent No.3 was authorized to conduct the search and investigation, issued by the Superintendent of Police, ACB, Raipur, on that basis it was contended that respondent No.3 was posted at Raipur, and has no authority to conduct raid at Bilaspur. It is contended that the investigation is carried out with the predetermined notion without consideration of the income of the petitioner and their relatives which has been generated by the legal source by the petitioner. He would further submit that the sanction which was given under Section 17 of the Prevention of Corruption Act was not justified and was given without any application of mind as no reason has been assigned for the same. He referred to the case of ***State of Haryana and Others Vs. Bhajan Lal and Others {reported in 1992 Supp (1) SCC 335 }*** and submit in such circumstances the F.I.R. against the petitioner is liable to be quashed.

4. Per contra, State counsel opposes the petition.
5. I have perused the document Annexure P-1, which records that on an secret information received about Shubh Narayan Pathak, who was the Executive Engineer and working in the Pradhan Mantri Gram Sadak Yojna, Bilaspur while was posted in the different places in his official capacity has earned the income over and above his legal source of income and thereby has accumulated considerable movable & immovable properties. Annexure P-1 also records that lot of movable & immovable properties were purchased and having primarily investigated, it was found that the petitioner being a

public servant has accumulated huge properties over and above his known source of income which reads as under:-

- (i) One house in the name of Vivek at Devnandan Nagar, valued at Rs.1 Crore.
- (ii) In the name of his wife Saroj Pathak, one flat bearing Flat No.222 was procured in Kusumvilla at Telibandha, valued at Rs.50 Lakhs
- (iii) At District Baliyan (U.P.) in front of Bisnipur Road Church one Shubham Hotel in the name of Shubh Narayan Pathak, which costs Rs.1Crore, 50 Lakhs.
- (iv) One Benami Property at Usha Heights, at Shrikant Verma Marg, Bilaspur in the name of his son-in-law Vinod Kumar, which was purchased recently.
- (v)At District Korba different lands and at Kharsia Pandaripani one gas plant belongs to the petitioner.

Therefore, it prima facie appears that the document, which is the secret information (Annexure P-1) shows considerable properties were in the name of the petitioner were found after recovery was made as the FIR & other documents fortifies the same. The enquiry papers prima facie shows that the properties were over and the known income of the petitioner.

6. The submission made by the petitioner that all the properties had a valid source can only be explained and accepted at the time of the trial only. The defence submission of the petitioner at this stage cannot be accepted as against the documents collected by prosecution. The properties so stated to be over and above the income were of valid source and have accounted for by the different persons it is to be tested at floor of evidence. Prima facie the document are filed leans in favour of the prosecution. The primary reading of the permission granted under Section 17 of the Prevention of Corruption Act cannot be stated that the same was without any application of mind.

7. The Supreme Court in case of ***Subramanian Swamy v. Central Bureau of Investigation (2014) 8 SCC 682*** has observed as under:

“Corruption is an enemy of nation and tracking down corrupt public servants and punishing such persons is a necessary mandate of the PC Act, 1988. It is difficult to justify the classification which has been made in section 6-A because the goal of law in the PC Act, 1988 is to meet corruption cases with a very strong hand and all public servants are warned through such a legislative measure that corrupt public servants have to face very serious consequence.”

“Corruption is an enemy of nation and tracking down corrupt public servant, howsoever high he may be, and punishing such person is a necessary mandate under the PC Act, 1988. The status or position of public servant does not qualify such public servant from exemption from equal treatment. The decision making power does not segregate corruption officers into two classes as they are common crime-doers and have to be tracked down by the same process of inquiry and investigation.”

8. Considering the facts, it will be too premature to give certificate of innocent to the petitioner at this stage. Taking into the nature of document which are filed along with the petition which shows that over and above the income of the petitioner huge properties were accumulated. The FIR and consequent proceedings cannot be quashed at the threshold.
9. The petition has no merit as such it deserves to be and is hereby dismissed at the motion stage itself.

Sd/-

Goutam Bhaduri
Judge

Ashu