

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40376 of 2017

Arising Out of PS.Case No. -89 Year- 2016 Thana -VIGILANCE District- PATNA

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Amit Kumar aged about 38 years, S/o Prakash Chandra Singh, resident of New Colony behind High School Field, Raja Bazar, P.S. Bihiya, District Bhojpur.

.... Petitioner/s

Versus

The Superintendent of Police Vigilance having his office at Birchand Patel Path, P. S. Kotwali, District Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukeshwar Dayal, Adv.
Mr. Vikas Mohan, Adv.

For the Opposite Party/s : Mr. Santosh Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 15-03-2018

This application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') has been filed by the petitioner for quashing the First Information Report (for short 'FIR') of Vigilance P.S.Case No. 89 of 2016 registered under Section 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988.

2. At the outset, it is admitted by the learned counsel for the petitioner that on completion of investigation the police have already submitted charge-sheet against the petitioner and on perusal of the same, the learned Special Judge, Vigilance Trap, Patna has taken cognizance of the offence. It is also admitted by the learned counsel for the petitioner that after complying with the provisions prescribed



under Section 207 of the Cr.P.C. charges have already been framed against the petitioner.

3. Learned counsel for the petitioner submitted that even though charges have been framed, the FIR should be quashed in view of the fact that the entire allegation made against the petitioner is false and concocted. He submitted that no bill of Rs. 75,000/- for payment to the complainant on whose complaint the vigilance trapped the petitioner was pending and, hence, the very genesis of the complaint is doubtful.

4. On the other hand, learned counsel for the Vigilance submitted that it is a settled principle of law that once charges are framed the case has either to end in acquittal or in conviction. At this stage, it is not proper for this Court to interfere with the FIR. He submitted that the allegations made in the FIR are serious in nature. The Investigating Officer during investigation found the allegations made in the FIR to be true and on the basis of the statements of witnesses recorded under Section 161(3) of the Cr.P.C. charge-sheet has been submitted against the petitioner. He submitted that on merits also the petitioner has no case.

5. I have heard learned counsel for the parties and perused the record.

6. From perusal of the FIR, it would transpire that a



complaint was filed by one Dharmendra Kumar Singh on 07.09.2016 before the Superintendent of Police, Vigilance Investigation Bureau, Bihar, Patna stating therein that he was working as a Rural Revenue Franchise and had also been assigned with the work of installation of meter. On the basis of works executed by him, his bill amounting to Rs.75,000/- was pending. He contacted the petitioner, a Junior Electrical Engineer, Electric Supply Sub-Division, Goh for payment of his bill, who demanded Rs.10,000/- for making recommendation for payment. On receipt of the allegation made by the complainant, the Superintendent of Police appointed one Indrajit Singh, Assistant Sub-Inspector, Vigilance Investigation Bureau to verify about the correctness of the allegation. The verifier reported that in his presence the petitioner demanded Rs.20,000/- in lieu of payment of Rs.50,000/- already made earlier and after negotiation he agreed to do the work of the complainant after payment of Rs.15,000/-. On the basis of such report, a pre-trap memorandum was prepared and a trap was led. The petitioner was apprehended while accepting Rs.15,000/- as bribe whereafter post-trap memorandum was prepared and other formalities were done.

7. In the opinion of this Court, the allegations made in the FIR do attract the ingredients of the offences punishable under Sections 7 and 13(2) read with 13(1)(d) of the Prevention of



Corruption Act. The defence of the petitioner regarding his false implication in the case can only be looked into at appropriate stage during trial. Learned counsel for the Vigilance has rightly submitted that at this stage, when charge has already been framed, it would not be proper for this Court to quash the FIR.

8. Accordingly, the application is dismissed.
9. However, the observations made in this order shall not have any bearing on the merit of the case in course of trial.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17-03-2018
Transmission Date	17-03-2018

