

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45116 of 2014

Arising Out of PS. Case No.-1 Year-2007 Thana- C.B.I CASE District- Patna

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Ram Nandan Choudhary S/o Late Munnilal Chaoudhary R/o Mohalla - Azad
Road, Chandwara, P.S. Town, District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar Through Vigilance

... .. Opposite Party/s

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Appearance :

For the Petitioner : Mr. Shiv Shankar Sharma, Advocate.

Mr. Arun Kumar Sinha, Advocate.

For the Vigilance : Mr. Santosh Kumar Pandey, Advocate.

Mr. Ramakant Sharma Sr. Advocate (L/O(I.C.VIG))

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

4 06-03-2018 The petitioner is aggrieved by the order dated 12.09.2014 whereby his application for discharge from the case viz. Special Case No. 1/07 arising out of Vigilance Case No. 1/07 has been rejected.

Learned counsel for the petitioner has submitted that he was not posted in the department at the relevant time when such bungling had taken place and that without any rhyme or reason, he has been roped in the present case.

Mr. Shiv Shankar Sharma, learned advocate appearing for the petitioner further contended that from the impugned order itself it would appear that the Trial Court went beyond the records to hold that there are sufficient materials against the



petitioner for him to be tried in the present case. This he argues on the basis of statement made in the order that the records as well as the case diary were perused by the trial court. He, while adumbrating the aforesaid point, has submitted that preliminary enquiry in the matter, before the lodging of the case, could not have been gone into by the learned trial court for deciding an application under Section 239 Cr.P.C.

This argument of the learned counsel for the petitioner is not worthy of acceptance for the simple reason that when the court has spoken about “perusing the records as well as the case diary”, it only means that he has perused the records of this case viz. the FIR and the investigation papers. Nothing more could be read into the phrase “perused the records”.

The petitioner may not have been named in the complaint petition but he has been arraigned as an accused in the FIR and the investigations have revealed his complicity.

Considering the materials against the petitioner, this Court is not inclined to interfere with the order dated 12.09.2014; more so when seven witnesses have already been examined at the trial.

Whatever grounds have been taken by the petitioner in the present petition could be agitated at the trial. Dismissal of the



present petition would not be read to the prejudice of the petitioner.

With the aforesaid observation, the petition is dismissed.

(Ashutosh Kumar, J)

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