

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.45820 of 2017

Arising Out of PS.Case No. -74 Year- 2015 Thana -MUZFFARPUR COMPLAINT CASE District- MUZAFFARPUR

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1. Ravindra Kumar Singh, Son of Late Kedar Singh, Resident of Village- Patahi Jagarnath, P.S.- Sadar District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Vigilance North Bihar, Muzaffarpur.
2. Nawal Kishore Singh, The then Deputy Superintendent of Police, West Champaran, Bettia presently Superintendent of Police, C.I.D., Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Ranjan, Adv.

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 18-06-2018

Heard learned counsel for the petitioner and learned counsel for the State.

2. This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for quashing the order dated 15.07.2017 passed by the learned Special Judge, Vigilance, North Bihar, Muzaffarpur in Complaint Case No. 74 of 2015 by which he has dropped the proceedings in the light of the judgment passed by the Supreme Court in *Anil Kumar Vs. M.K. Aiyappa* reported in (2013)10 SCC 705 as well as the order passed by this Court in *Sakaldeo Paswan Vs. State of Bihar through D.G. Vigilance and another* reported in 2015(3) PLJR 790 and *Manoj*



Kumar Rajak Vs. State of Bihar through I.G. of Police, Vigilance Department passed in Cr.Misc. No. 880 of 2016 dated 15.02.2017.

3. Learned counsel for the petitioner submitted that the order impugned is bad in law as also on facts. He submitted that the court below has wrongly appreciated the judgment passed by the Supreme Court in ***Anil Kumar Vs. M.K. Aiyappa*** (Supra) and of this Court in ***Sakaldeo Paswan Vs. State of Bihar*** (Supra). The opposite party no.2 was appointed as the Deputy Superintendent of Police in 1994 and was posted at different places till 2012 and during that period he misused his official position and in that process he earned moveable and immoveable property and he amassed huge property in his own name as also in the name of his relatives. He submitted that he has invested huge amount in innovation of his ancestral house and also erected a well furnished house. He contended that the maximum income of the opposite party no.2 during period 1994 to 2012 was Rs. 45 lacs, however, he has created property worth Rs.1,20,44,399/-. He submitted that looking at the abuse of the official position the court below ought not to have dropped the proceedings against the opposite party no.2.

4. On the other hand, learned counsel for the State



submitted that the case arises out of a private complaint. He submitted that there is no dispute to the fact that the opposite party no.2 was a public servant and in order to establish an offence punishable under Section 13(1)(d) and (e) of the Prevention of Corruption Act under which the complaint was filed, sanction for prosecution was mandatory. He submitted that the court below rightly appreciated the ratio laid down by the Supreme Court in **Anil Kumar Vs. M.K. Aiyappa** (Supra) and of this Court in **Sakaldeo Paswan Vs. State of Bihar** (Supra) and has dropped the proceedings.

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

6. The Supreme Court in **Anil Kumar Vs. M.K. Aiyappa** (Supra) after elaborate discussions, while upholding the right of an individual to file complaints under the Prevention of Corruption Act has proceeded to clarify that in absence of a previous sanction for prosecution of the public servants charged with acts of corruption, the Magistrate concerned can neither take cognizance and hold enquiry under Section 202 of the Code nor can order for investigation against the public servant, under Section 156(3) of the Cr.P.C. Thus obtaining a sanction to prosecute public servants charged with acts of corruptions was held an essential pre-condition for filing of a complaint by a private individual under the provisions of the Act.



7. This Court has followed the aforesaid judgment of the Supreme Court in *Sakaldeo Paswan Vs. State of Bihar* (Supra). In the opinion of this Court, the court below has rightly passed the impugned order dated 15.07.2017 dropping the criminal proceeding against the opposite party no.2 considering the fact that there was no sanction for prosecution against him.

8. In that view of the matter, I find no merit in this application. It is accordingly dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	19-06-2018
Transmission Date	19-06-2018

