

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.934 of 2016

Arising Out of PS. Case No.-75 Year-2014 Thana- C.B.I CASE District- Patna

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Bhola Paswan Son of Sri Ramdeo Paswan Resident of Village: Khoir tola,
Manjhaul, Police Station: Cheriya Bariyapur District Begusarai at Present
Posted at District Industry Centre, Muzaffarpur. Petitioner

Versus

The State of Bihar Through Department of Vigilance Patna.

... .. Respondent

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Appearance :

For the Petitioner/s : Mr. Akhilesh Dutta Verma

For the Respondent/s : Mr. Rama Kant Sharma(L.O,I/C Vigi)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 16-08-2018 Heard learned counsel for the petitioner. No one
appears on behalf of the Vigilance Investigation Bureau.

The petitioner in the present case has challenged the order as contained in Memo No. 258 dated 24.12.2014 issued under the signature of the Secretary to the Government, Department of law by which the Government has been pleased to grant sanction as envisaged under Section 19 of the Prevention of Corruption Act, 1988 to prosecute the petitioner under Sections 7/13(2) read with Section 13(1)(d) of the Prevention of Corruption Act.

Learned counsel for the petitioner has attempted to assail the order granting sanction on the ground that once on the same charge a departmental proceeding was initiated in which the petitioner has been exonerated, the continuance of the criminal prosecution against the petitioner itself would be bad in



law. He has relied upon the judgments of the Hon'ble Supreme Court in the case of **P. S. Rajya Versus State of Bihar** reported in **(1996) 9 Supreme Court Cases 1** and in the case of **Deepak Kumar vs. State of Bihar** reported in **2010 (1) PLJR 715 (HC)**. In the sum and substance it is the case of the petitioner that he has been totally exonerated from the charges and therefore, once exonerated in the departmental proceeding, he cannot be subjected to the criminal case which is going on in the court of learned Special Judge, Vigilance.

I have considered the submissions advanced on behalf of the petitioner. It appears that the sanction order was granted as back as on 24.12.2014, thereafter, the petitioner was served with praptra 'ka' dated 18.02.2015 which is Annexure-4 to the writ application. He claims exonerated vide Annexure-6 to the writ application. As regards the present status of the criminal proceeding, learned counsel for the petitioner has informed this Court that in the criminal case charges have already been framed against the petitioner and the case is going in trial as the case is fixed for evidence.

At this stage, this Court is unable to accept the prayer of the petitioner to quash the sanction order for the simple reason that in the garb of seeking quashment of the sanction



order, the petitioner is virtually seeking quashment of the entire criminal proceeding which is not under challenge either in this writ application or in any appropriate application preferred by the petitioner. The fact remains that the charges have been framed against the petitioner and at the stage of framing of charge also he has not raised the issue of sanction. The order framing charge is not under challenge and as such by challenging the order granting sanction, the petitioner cannot be allowed to pray for a relief wherein entire criminal proceeding be quashed.

On perusal of the judgment of the Hon'ble Supreme Court in the case of **P. S. Rajya** (Supra), it would appear that in the said case question which had fallen for consideration before the Hon'ble Supreme Court was as to whether the criminal proceeding could be maintainable after exoneration of the petitioner in the departmental proceeding. In the case of **Deepak Kumar** (Supra), this Court, sitting in its inherent jurisdiction under Section 482 of the Code of Criminal Procedure, was considering a case wherein the prosecution itself was under challenge.

As stated above, in the present case, in the garb of a challenge to the sanction order the criminal proceeding has been



sought to be quashed. This Court, for the reasons stated hereinabove, would not be agreeing for the same. The writ application is, thus, dismissed.

As prayed on behalf of the petitioner, liberty is granted to seek appropriate remedy in a duly constituted application in accordance with law. It goes without saying that the petitioner can raise all such issues which are available to him in course of trial.

(Rajeev Ranjan Prasad, J)

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