IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1146 of 2015

Arising Out of PS.Case No. -508 Year- 2015 Thana -Kotwali District- PATNA

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M/s Vishwa Infrastructures & Services Pvt. Ltd. & BRCCPL (JV), Joint Venture Companies incorporated under the provisions of Companies Act, 1956 having its Registered Office at 1-11-256/c/24, Plot No.24, Gagan Vihar Colony, Begumpet, Hyderabad-500016 through its Director Finance, M. Goverdhan Reddy, S/o Late M Siva Reddy, Resident of 3-4-511/512 Barkatpura, P.S. Kachedguda, District-Hyderabad-27, Telangana.

.... Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna.
2. The Director General of Police, Bihar, Old Secretariat, Patna
3. The Senior Superintendent of Police, Patna
4. The Officer In-charge, Kotwali Police Station, Patna
5. The Bihar Urban Infrastructure Development Corporation Ltd., a Government of Bihar Undertaking, having its office at 303, 3rd Floor, Maurya Tower, Maurya lok Complex, Budh Marg, Patna- 800001 through its Executive Manger.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mrs. Priya Gupta, Adv.
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
Date: 27-07-2018

Petitioner has moved this Court for quashing of the F.I.R. and the entire criminal proceeding arising out of Kotwali P.S. Case No.508 of 2015, G.R.No.6163 of 2015, registered under Sections 409 and 420 of the Indian Penal Code read with Section 4 of Bihar Prevention of Specified Corrupt Practices Act, 1983.

On perusal of the FIR it appears that there is an allegation that the petitioner being a contractor, having obtained the works contract from Bihar Urban Infrastructure Development

Corporation Ltd., submitted some bank guarantees which were valid for a particular period, against those bank guarantees he had received mobilization advance amount of Rs.5.84 crores from the Corporation. The allegation is that he did not submit any work schedule and despite reminders given to him he had not extended the validity of the bank guarantee with an intention to get unlawful gain for himself and to cause unlawful loss to the Corporation.

Learned counsel representing the petitioner submits that the petitioner was blacklisted by the Corporation when he failed to perform the work under the works contract, his registration was also cancelled debarring him from future participation in any project of the Corporation but the same has been challenged by the petitioner before the Bihar Works Contract Arbitration Tribunal by filing a petition under Section 30 of the Arbitration and Conciliation Act, 1996. Learned counsel submits that the dispute with regard to mobilization advance amount is also subject matter of the dispute pending with the arbitration tribunal and, therefore, the FIR is liable to be quashed on this ground alone.

On the other hand, learned counsel representing the Corporation submits that it is now settled by the judicial pronouncement by the Hon'ble Apex Court in the case of Rajesh Bajaj Vs. State NCT of Delhi reported in (1999) 3 SCC 259 that most of the criminal cases arise out of a business disputes but if have the ingredients of offences under the Indian Penal Code a criminal case may go together with a civil dispute and there is no bar in pursuing a criminal proceeding in such cases. Learned counsel submits that the allegation against the petitioner is that he had received huge amount of over rupees 7 crores under the contract out of which Rs.5.84 crores was given on account of mobilization advance in view of the surety furnished by him by way of bank guarantee and right from the beginning he had no intention to carry on the contract he did not submit work schedule and never started the work. Since huge public money was taken away by the petitioner and then he refused to renew the security, finding that the intention of the petitioner was to obtain unlawful gain for himself and to cause unlawful loss to the Corporation it was decided to lodge the FIR. Learned counsel submits that at this stage the FIR is not required to be interfered with in the facts and circumstances of the case.

Having heard learned counsel for the parties and on perusal of the records particularly after going through the allegations made in the FIR, this Court is of the considered opinion that the allegations as alleged against the petitioner, if proved in course of investigation on the basis of the materials collected by the investigating agency, it may be a case of prosecution for criminal offence. At this stage, the Court cannot go into the merit of the allegations and/or the evidences which may be collected by the investigating agency in course of investigation. On going through the FIR it cannot be said that without adding or subtracting anything out of it, no case at all is made out. In the opinion of this Court, the investigation of this case cannot be interfered with and it must be brought to a logical end by the investigating agency.

The writ application is, therefore, dismissed, the interim order stands vacated and the investigating agency is directed to complete the investigation of the case within a period of three months and submit a report in accordance with law in the court below.

It is made clear that the observations of this Court for the purpose of rejection of the present writ application shall not prejudice the petitioner and the investigating agency is expected to act freely and independently in the matter of carrying on the investigation without taking note of any part of the observations of this Court hereinabove.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	