

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27739 of 2016

Arising Out of PS.Case No. -16 Year- 2016 Thana -C.B.I CASE District- PATNA

=====

Jay Narayan Rajak, s/o Late Bhumi Rajak, r/o village & P.O. Garhmohani, P.S. Gogri, District Khagaria. At present residing at Kazipur Quarter No. 13, Road No. 1, P.O. Machua Toli, P.S. Kadam Kuan, town & district - Patna.

.... Petitioner/s

Versus

The State of Bihar through Vigilance.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma Sr. Advocate.

For the Vigilance : Mr. Arvind Kumar I/C. Law Officer, Vigilance.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 12-09-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 01.04.2016 passed by learned Special Judge, Vigilance, Patna, in Special Case No. 4 of 2016 arising out of Vigilance P.S. Case No. 16 of 2016 by which the learned Special Judge took cognizance against the petitioner for the offence under Sections 7/13(2) read with 13(1)(d) of Prevention and Corruption Act.

2. Heard learned counsel for the petitioner and learned counsel for the vigilance.

3. Learned counsel for the petitioner submits that the impugned order passed by learned Special Judge, Vigilance, Patna, is in mechanical manner without applying the judicial mind. He further



submits that from the order it appears that the same has not been written in the own handwriting of Presiding Officer. He further submits that person making complaint has no concern with the land alleged to have been acquired.

4. Learned counsel for the Vigilance has submitted that there is no illegality in the impugned order.

5. In the First Information Report it is alleged that one Viswanath Mahto has filed a written complaint before the Vigilance on 15.02.2016 alleging that he is owner of total 0.88 decimals of land along with his brother Kashinath Mahto in Khata No. 45, 51, Plot Nos. 858, 826, 818 and 856. It is further alleged that above land was acquired for Mega Industrial Park (Land Bank Bihta) and compensation amount for the said land was to be given to the informant and his brother Kashinath Mahto. It is also alleged that for payment of compensation, the competent authority have already passed order. The informant Vishwanath Mahto visited for payment in the office of District Land Acquisition Officer, Patna. He met the Peshkar Jay Narayan Rajak (petitioner) for payment of compensation amount, for which, he demanded bribe of Rs.20,000/- and threatened that until the said bribe money is paid, he will not do the work of the informant. The informant reported the matter to the vigilance on 16.02.2016. Thereafter, on the same day trap team was constituted



and pre trap was also held. On same day post trap was conducted at Tulsi Hotel Collectorate Compound, Patna, and petitioner was arrested.

6. Learned Special Judge has mentioned in the impugned order that on perusal of the police report including charge sheet, sanction order and case diary, he has found sufficient material for taking cognizance against petitioner for the offence under Section 7(13)(2) read with 13(1)(d) of Prevention of Corruption Act, 1988. The learned Special Judge accordingly has taken cognizance against the petitioner.

7. The court below is only required to see *prima facie* case at the time of taking cognizance. This Court further finds from the impugned order that court below has passed the order after proper application of mind. The order cannot be held to be illegal merely because it has not been written in own handwriting of Presiding Officer. From the order it appears that Presiding Officer has put his signature after properly applying his mind and after looking into relevant documents.

8. Therefore, this Court does not find any illegality in the impugned order.

9. This Criminal Miscellaneous application is accordingly dismissed.



10. Petitioner is given liberty to raise all the points as raised in this petition during course of trial including at the stage of framing of charge which shall be considered by the court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	18/09/2018
Transmission Date	18/09/2018

