

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39207 of 2017

Arising Out of PS.Case No. -89 Year- 2009 Thana -C.B.I CASE District- PATNA

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Bishnu Narayan Singh, son of Late Sagar Singh, resident of village- Nawada Ben,
P.S.- Udawant Nagar, District- Bhojpur, at present address Q. No.1, Pesu Campus,
New Secretariat, Patna- 1.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Department of Vigilance through its Inspector General, Govt. of Bihar, Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh, Advocate
: Mr. Anant Kumar Pandey, Advocate
For the State : Mr. Mritunjay Kumar Nirala, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 30-03-2018

This application under Section 482 of the Code of Criminal Procedure (for short 'the Cr.P.C.') has been filed by the petitioner for quashing the order dated 13.06.2017 passed by the learned Special Judge, Vigilance (Trap), Patna in connection with Special Case No.64 of 2009 arising out of Vigilance P.S. Case No.89 of 2009 dated 28.08.2009 registered under Sections 7, 8, 13(2) read with 13(1)(d) of the Prevention of Corruption Act (for short 'the P.C.Act') whereby



the application dated 27.04.2017 filed by the petitioner for calling for the letter dated 07.08.2009 has been rejected.

2. The petitioner has been made accused in the aforesaid vigilance case on the basis of allegation made by one Smt. Renu Bala Sinha for demanding illegal gratification on the pretext that the meter installed in the clinic of her husband had excess load of five kilowatts. He is alleged to have been caught red handed while accepting Rs. 7000/- as illegal gratification from the complainant.

3. On completion of investigation, charge-sheet was submitted against the petitioner and cognizance was taken against him on 05.11.2009. Thereafter, all the relevant documents in compliance with Section 207 of the Cr.P.C. was supplied to the petitioner and finding sufficient ground to proceed in the matter charges were framed against him under Sections 7 and 13(2) read with 13(1)(d) of the P.C.Act.

4. Since the petitioner denied charges, the trial commenced and P.W.1 Smt. Renu Bala Sinha was examined on 22.02.2011 and on the same day her cross-examination was also done in part. In cross-examination she had stated that no inspection report dated 03.08.2009 was prepared by the members. It was at this stage the petitioner filed an application before the Special Judge, Vigilance, Patna to call for original report dated 03.08.2009 and letter dated 07.08.2009, which



according to him was withheld by the Vigilance/Electricity Department and not submitted before the trial court along with the police report under Section 173(2) of the Cr.P.C.

5. The prayer of the petitioner for summoning original inspection report dated 03.08.2009 and letter dated 07.08.2009 was rejected by the learned Special Judge, Vigilance vide order dated 25.02.2011. The said order was challenged by the petitioner before this Court in Cr.Misc. No.9585 of 2011 which was allowed vide order dated 16.09.2011 with direction to the court below to call for the concerned document. After lapse of over five years from the date of the order dated 16.09.2011 passed by this Court the petitioner filed another application on 27.04.2017 before the court of learned Special Judge, Vigilance (Trap), Patna to call for the original inspection report dated 03.08.2009 and letter dated 07.08.2009. It would be manifest from the record that after the order was passed by this Court on 16.09.2011 in Cr.Misc. No.9585 of 2011, the inspection report dated 03.08.2009 was produced by the Vigilance before the Court of Special Judge and in respect of letter dated 07.08.2009 written by Smt. Renu Bala Sinha it was informed that copy of the same is part of the FIR and no other copy is in possession of the Vigilance.

6. After hearing the parties, the learned Special Judge, Vigilance, Patna vide order dated 13.06.2017 rejected the petition



dated 27.04.2017 filed by the petitioner and directed the prosecution to adduce evidence mainly on the ground that the inspection report dated 03.08.2009 has already been produced and a copy of the letter dated 07.08.2009 written by Smt. Renu Bala Sinha is part of FIR and the Vigilance has reported that no other copy is available with the investigating agency.

7. Assailing the impugned order dated 13.06.2017, learned counsel for the petitioner submitted that the trial should not be allowed to proceed further in absence of the original letter dated 07.08.2009 said to have been written by Smt. Renu Bala Sinha to the Executive Engineer, Electricity Division, Gulzar Bagh, Gaighat, Patna. He submitted that non-production of original copy of the letter would cause great prejudice to the case of the defence.

8. On the other hand, learned counsel for the State submitted that there is no merit in this application. The documents on which the prosecution has placed reliance in order to prove the charges have already been supplied to the petitioner in compliance of the provisions prescribed under Section 207 of the Cr.P.C. before framing of charges. He submitted that the only intention of the petitioner is to delay the trial. A copy of the letter dated 07.08.2009 is already on record and since original copy of the same is not in custody of the vigilance, it cannot be said to be a case of withholdment of the



document relevant for the purpose of trial.

9. I have heard learned counsel for the parties and perused the record. I find substance in the submissions made by the learned counsel for the State.

10. In my opinion, the trial in a trap case cannot be delayed for an indefinite period for want of a letter which may have some relevance or which may not have any relevance for the purpose of final decision of the case. Once the Vigilance has taken a stand that only copy of that letter is in their custody, the accused cannot compel the prosecution to produce original copy before the court. In case after the trial concludes and the court comes to a conclusion that it was a deliberate move on the part of the prosecution to withhold a part of particular documents, the court may draw an adverse inference against the prosecution in terms of section 114(i) of the Evidence Act, but on that ground the trial cannot be kept in abeyance.

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

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N.A.
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