

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 49941 of 2016

Arising Out of Vigilance Case No.-43 Year-1991 Thana- C.B.I CASE District- Muzaffarpur

Rajendra Prasad Son of Late Ramchandra Lal, Resident of Village-
Chaturbhuji Baraon, P.S. Piro, District- Bhojpur at present residing in M/26-
D.S. Harmoo Housing Colony, Police Station- Argora, District- Ranchi.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director, Vigilance Bihar, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anamul Haque and Mr. Najmul Hodda, Advocates
For the State	:	Mr. Jharkhandi Upadhyay, A.P.P.
For the Vigilance	:	Mr. Anjani Kumar and Mr. Sanjay Kumar, Advocates

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 01-02-2019

Heard learned counsel for the petitioner; learned A.P.P.

for the State and learned counsel for the Vigilance.

2. The petitioner has moved the Court under Section 482

of the Code of Criminal Procedure, 1973 for the following relief:

“That this is an application for quashing the order taking cognizance and issuing summons against the petitioner & others dated 01.07.2016 in Vigilance Case No. 43 of 1991 (Special Case No. 23/2002) passed by learned Special Judge, Vigilance North Bihar Muzaffarpur in Vigilance Case No. 23/02 under sections 120(B), 409, 420, 467, 468, 471, 477(A)/109 Indian Penal Code and 13(2) read with section 13 (1) (D) of P.C. Act.”



3. The allegation against the petitioner and other persons is that, at the relevant time in the year 1976-77, when he was holding the post of Block Development Officer, Bhagwanpur Hat in the District of Siwan, had sanctioned short term loan to 45 persons totaling Rs. 33,910.98/-, which has been found in enquiry to be given to persons who are either fictitious or did not satisfy the condition for sanction of loan.

4. Learned counsel for the petitioner submitted that soon after the incident in Siwan, he was transferred to Ranchi, where he superannuated in January, 1991 and after ten months in November, 1991, FIR was lodged and further cognizance has been taken in the year 2016 i.e. after almost 25 years of lodging of the FIR and 39 years of the alleged occurrence. Learned counsel submitted that his role was only that of the sanctioning authority and the main ground work and investigation/enquiry in the field was to be done by his subordinates i.e., the Block Agriculture Officer and Jan Sewak of the Panchayat. It was submitted that the said two persons were required to do their job of verifying and recommending for distribution of short term loan to farmers and upon the same being done, the petitioner was only to give approval, which has been done by him. It was submitted that neither in law nor under any Government guideline or circular or



direction he was to again verify the recommendation with regard to each and every beneficiary. It was submitted that in such view of the matter, when the Government machinery works in a manner where there is a hierarchy and every person is assigned a particular responsibility, the basic responsibility of identifying the beneficiaries and of looking into the authenticity and eligibility of such beneficiaries, is on others on whose recommendation the petitioner as the Block Development Officer was only required to put his seal of approval as has been done. Learned counsel submitted that even otherwise, after having superannuated more than 27 years back and the incident itself being of the year 1976-77 and also the amount being only about Rs. 34,000/-, the petitioner be saved from the harassment having unnecessarily to face trial at Muzaffarpur being advanced in age and residing at Ranchi.

5. Learned counsel for the Vigilance submitted that from the records the allegation against the petitioner was that he has committed irregularities in such loans. However, to the contention of learned counsel for the petitioner that he had no role in verification of the beneficiary and once such recommendation came from the field officers, the petitioner had only approved the same, learned counsel for the Vigilance submitted that from the



records he could not controvert the same. However, he added that *prima facie* case is made out against the petitioner.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a case for interference has been made out. When a categorical stand has been taken on behalf of the petitioner, that his only role was to approve the proposal which came from the field officers who were required to verify and make enquiry with regard to the beneficiaries, which had been done, merely because it was petitioner who had ultimately allowed the loan, in the considered opinion of the Court is not sufficient to charge him with any criminal liability, much less can result in any conviction.

7. Accordingly, the application is allowed. The entire criminal proceeding of Vigilance Case No. 43 of 1991 (Special Case No. 23/2002) including the order taking cognizance dated 01.07.2016, as far as it relates to the petitioner, stand quashed.

(Ahsanuddin Amanullah, J.)

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