

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.802 of 2019

Arising Out of PS. Case No.-16 Year-2016 Thana- VIGILANCE District- Patna

Jai Narayan Rajak son of Late Bhumi Rajak, Resident of Village and P.O.-
Garh Mohni, P.S.- Gogri, District - Khagaria

... .. Petitioner/s

Versus

1. The State of Bihar through S. P. Vigilance, Bihar, Patna
2. Vishwanath Mahto, (Complainer) son of Ram Jatan Mahto Resident of
Village - Jamuna Pur, P.O.-Kateshar, P.S.- Bihta, District - Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Arun Kumar No.1, Advocate

For the Respondent/s : Mr.Anjani Kumar, Law Officer, Incharge, Vigilance

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 07-05-2019

The defects, as pointed out by the registry, are
ignored.

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

3. This application under Articles 226 and 227 of
the Constitution of India has been filed by the petitioner for
quashing the order dated 15.12.2018 passed by the learned Special
Judge, Vigilance (Trap), Patna in Special Case No.04 of 2016
arising out of Vigilance P.S. Case No.16 of 2016 whereby the
application filed by the petitioner seeking discharge has been
rejected and he has been directed to remain physically present on
17th of January, 2019 for framing of charge.



4. Learned counsel for the petitioner submitted that the entire prosecution case is based upon false and frivolous allegations. The petitioner has been trapped in the case at the behest of Nazir, who was entrusted with job of paying the amount of compensation to the complainant Vishwanath Mahto. The allegation of demanding and accepting illegal gratification in the name of making payment of compensation against the petitioner is not supported by the facts of the case. He pleaded that though this Court while rejecting the application of the petitioner for quashing the order of cognizance had observed that the petitioner would be at liberty to raise all the points available to him at the stage of framing of charge but the court below has not looked into the defence put forth by the petitioner and has arbitrarily passed the order rejecting the application for discharge.

5. Per contra, learned counsel for the Vigilance submitted that the allegations made in the FIR are well founded. The payment of compensation to the complainant in a land acquisition proceeding was due and in lieu of making payment a demand of Rs.20,000/- was made by the petitioner for which a complaint was filed pursuant to which a preliminary enquiry was conducted. On verification, the allegation was found true whereafter a pre-trap memorandum was prepared and the



petitioner was apprehended while demanding and accepting Rs.20,000/- as illegal gratification in presence of independent witnesses. He submitted that the defence, as taken by the petitioner, can be considered at the stage of trial and not at the stage of framing of charge. The court below has rightly rejected the application of the petitioner as sufficient materials have been found upon consideration of the record of the case and also after hearing the submission of the accused and the prosecution in this behalf.

6. I have heard learned counsel for the parties and carefully perused the order impugned.

7. From perusal of the order impugned, I find that firstly the court below has recorded the submissions advanced on behalf of the parties and thereafter it has recorded its own finding for not allowing the application of the petitioner. The findings of the court below in the impugned order are as under:-

"After hearing of both parties and perusal of record court finds that the petitioner is an accused of Vigilance P.S. Case No. 16/2016 dated 16.02.2016 U/s 7/13 (2) read with section 13 (1) (d) of the P.C. Act 1988. As per allegation, the complainant Bishwanath Mahto filed a written report before the S.P cum Officer in charge in



vigilance department on 15.02.2016 alleging therein that his land bearing Khata no.45 and 15 plot no.858, 818 and 856 total area 88 decimal was acquired by the Government for industrial park. The compensation of the said land was to be paid to his brother Kashi Nath Mahto and the complainant. It was further alleged in the complaint petition that the competent authority have passed order for payment of the compensation. It is further alleged that the complainant went in the office of the District Land Acquisition officer and met Peshkar Jai Narain Rajak who demanded Rs.20,000/- as illegal gratification for the aforesaid purpose. On the basis of the aforesaid complaint petition of the complainant ASI Surendra Paswan was ordered to verify the matter on 15.02.2016 itself who after verifying the facts submitted his verification report in affirmative on 16.02.16. Accordingly, a trap team was constituted after complying all the legal formalities which arrested the petitioner with bribe money of Rs.20,000/-. Thereafter, post trap memo was prepared and a copy of which was given to the petitioner. After investigation I.O. of this case submitted charge sheet against the accused. In the case diary the



statement of witnesses recorded U/s 161 Cr.P.C. have fully supported the case of prosecution. There is sufficient material available on the record to frame charges against the accused. In the circumstances the discharge petition dated 07.06.18 filed on behalf of accused Jay Narayan Rajak is hereby rejected. The points raised on behalf of petitioner will be considered at the time of trial. Put up on for hearing on the point of charge. The accused person is directed to remain physically present on the date fixed for framing of charge on 17.01.19."

8. It would be evident from perusal of the above findings that proper application of mind was made before passing the order impugned. Having regard to the materials on record if the court below came to a conclusion that there is sufficient ground for proceeding against the accused, no illegality can be found with the said order. Moreover, it is well settled that at the stage of framing of charge an elaborate scrutiny of evidence is not required. What is required is that whether there is sufficient ground to proceed against the accused or not. As it is a case in which there was a complaint with respect to demand of illegal gratification which was found true during verification pursuant to which trap was laid



and after preparing a pre-trap memorandum when the petitioner made demand and received illegal gratification, he was intercepted whereafter a post trap memorandum was also prepared in presence of the witnesses, no case for discharge was made out. The application has rightly been rejected by the court below.

9. The application, being devoid of any merit, is rejected.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.05.2019
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