

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46927 of 2014

Arising Out of PS. Case No.-31 Year-2010 Thana- C.B.I CASE District- Muzaffarpur

=====

Dinesh Kumar Verma S/o Late Kamakhaya Prasad Resident of Mohalla Bela
Road, P.S. Mithanpura, District Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar Through Vigilance
2. Abha Kumari Chaudhary, w/o Late Vishwanath Pd. Chaudhary, r/o
Mohalla- Suttapatti, Laxmi Bhawan, P.S. -Town-District-Muzaffarpur

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr.Yugal Kishore, Advocate
		Mr. Shri Nandan Prasad Singh, Advocate
For the Opposite Party/s :		Ms. Prakritita Sharma, Advocate
For the Vigilance	:	Mr. Anjani Kumar, Advocate
		Mr. Sanjay Kumar, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH
ORAL JUDGMENT

Date : 04-02-2019

Heard learned counsel for the petitioner; Vigilance and
opposite party no. 2.



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 dated 08/09/2014 passed by learned Spl. Judge, Vigilance, North Bihar, Muzaffarpur in Tr. No. 172/2014 “State Versus Dinesh Kumar Verma” arising out of Vigilance P.S. case no.-31/2010/ Spl. Case no.-16A/2010 by which the learned Spl. Judge, North Bihar, Muzaffarpur was pleased to take cognizance Under Section 468, 471, 477A/120B of I.P.C. and under section 7, 8, 13(2) read with section 13(1) (D) of the prevention of corruption Act 1988 herein after refer to as “the Act” and order for issuance of summons against the petitioner.”

3. The allegation against the petitioner and others is that he had fraudulently mutated the name of co-accused in the records of Muzaffarpur Municipality on the basis of a lease deed and also in the background that the owner, who is said to have executed the lease deed had already passed away prior to execution of the lease.

4. Learned counsel for the petitioner submitted that at the relevant time, he was the Administrator of Muzaffarpur Municipality and whatever order he has passed is on the basis of the proposal put up before him by the office. It was further submitted that the verification with regard to such proposal was not the job of the petitioner and that he was unaware of whether the father of the complainant, who was the land owner, was dead or otherwise. At this juncture, on a direct query of the Court as to



how the petitioner had transferred/ mutated the name of the co-accused on the basis of a so called lease in his favour, when a lessee does not have the right or title over the demised premises as he is there only in the capacity of a tenant and the name of lessor in the records has to remain as the landlord, learned counsel was not in a position to show to the Court that the action of the petitioner was *bona fide*.

5. Learned counsel for the Vigilance and opposite party no. 2 submitted that initially in the year 1994-95 also, in the Municipal records, the name of the father of the opposite party no. 2 was recorded as landlord, but on 27.10.2000, the petitioner changed the name of the landlord to that of a co-accused in the place of the father of the opposite party no. 2 and that too, based on a lease deed, which clearly shows criminal conduct.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the present application. Without going into any other finer detail, the Court finds that on the basis of lease deed, there cannot be any justification, either on facts or in law for any senior authority to mutate the name of a landlord. As has rightly been submitted by learned counsel for the opposite parties, a lease deed only creates tenancy but would not create right and



title of the lessee. Thus, for mutation in the records, in the column of landlord, the petitioner had absolutely no jurisdiction or authority to substitute the name in favour of co-accused who admittedly had only a lease deed in his favour.

7. For reasons aforesaid, the application stands dismissed.

(Ahsanuddin Amanullah, J)

P. Kumar

AFR/NAFR	
U	
T	

