

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11231 of 2012

Arising Out of PS. Case No.-7 Year-2002 Thana- C.B.I CASE District- Patna

Achal Kumar Rana, son of Ramdeo Rana, resident of village- Bhatolia, P.S.- Meenapur, District- Muzaffarpur, presently posted as Circle Inspector, Patna Sadar Anchal Office in the district of Patna.

... .. Petitioner/s

Versus

The State Of Bihar Through its Cabinet Vigilance Department, Vigilance Investigation Bureau, 6 Circular Road, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar with
Mr. Rajeev Shekhar and
Mr. Sandeep Kumar, Advocates

For the State : Mr. Jharkhandi Upadhyay, APP

For the Vigilance : Mr. Anjani Kumar, Law Officer, Vigilance with
Mr. Sanjay Kumar, A.C. to Law Officer, Vigilance

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 13-03-2019

Heard learned counsel for the petitioner and learned counsel for the Vigilance Investigation Bureau (opposite party).

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 22.4.2006, passed by Special Judge, Vigilance (Case) Patna by which he has taken cognizance of offences U/Ss. 420, 465, 466, 467, 471, 477 (A), 201, 109, 120 B I.P.C. and Section 13(2) read with Section 13 (1) (d) of the Prevention of Corruption Act, 1930 arising from Vigilance P.S. Case No. 007/02 dated 20.8.02 registered on the basis of written report by one Sri Indra Nath Mishra Deputy Superintendent of Police,



Cabinet Vigilance Department, Patna on the basis of illegal sanctioned for the prosecution, issued by Sri G. S. Dutt, Commissioner-cum-Secretary, Revenue and Land Reforms Department, Bihar, Patna vide his Memo No. Ni Ko., patna-6016/2005, 184 (Ni.ke.) Ra. dated 01.12.05 only because the said impugned order was passed in the most illegal, void, and arbitrary manner and also by non-application of consistent Judicial mind by not considering the illegal order of sanctioned dated 1.12.05 and therefore, since the impugned order is suffering from fundamental defect, which can not sustain in law and is fit to be quashed.”

3. The initiation of the matter was the complaint of a member of the Legislative Assembly resulting in vigilance enquiry against Mr. Ashok Kumar Singh, I.A.S., the then Managing Director, Bihar State Financial Corporation, alleging certain irregularities committed by him.

4. The sum and substance of the allegation was that the accused, in connivance, had misused their office and accumulated wealth under the garb of two N.G.Os. namely “Samvedna” and “Green Earth India”, by showing donation from loanees and had also acquired various properties at different places. The thrust of the allegations was against Mr. Ashok Kumar Singh.

5. After enquiry, charge sheet was submitted against various accused persons, including the petitioner, and by order dated 22.04.2006, the Special Judge, Vigilance, Patna had taken



cognizance under various Sections of the Indian Penal Code and the Prevention of Corruption Act, 1988.

6. At the very outset, learned counsel for the petitioner submitted that co-accused Mr. Ashok Kumar Singh, Mr. Devendra Kumar Singh, Mr. Ran Vijay Singh and Mr. Shrawan Kumar have already got relief by the Court. Learned counsel submitted that the main accused, namely Mr. Ashok Kumar Singh had filed a writ petition which was ultimately dismissed by the Hon'ble Supreme Court but the F.I.R. itself has been quashed by the Hon'ble Supreme Court in Criminal Appeal No. 1615 of 2013 by order dated 09.07.2014 (Annexure 10 to the supplementary affidavit filed on behalf of the petitioner). Learned counsel drew the attention of the Court to paragraph no. 31 of the said judgment of the Hon'ble Supreme Court which reads as under:

“31. The impugned FIR was lodged against the 1st respondent based on finding recorded above, we hold that FIR itself based on Vigilance Inquiry made by State of Bihar was not maintainable. For the reasons aforesaid, we are not inclined to interfere with the impugned order passed by the Patna High Court.”

7. At this juncture, the Court called upon learned counsel for the Vigilance to take a stand as to whether there was any distinguishing factor in the case of the present petitioner with regard to other co-accused to whom the Court had granted relief, especially Mr. Ashok Kumar Singh, in whose case the Hon'ble



Supreme Court has held that the F.I.R. itself was not maintainable. To such query learned counsel for the Vigilance, upon going through the entire materials available with him, fairly submitted that there is no distinguishing factor, except for the fact that the petitioner also had active role in the entire affairs.

8. When the Court again put a query to learned counsel for the Vigilance as to whether with regard to the other co-accused there was any lesser role with regard to their active participation, learned counsel could not controvert or make any distinction. However, he vehemently opposed the application.

9. 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.

10. Without advertng to the merits in detail, suffice to say that when the other four co-accused, especially Mr. Ashok Kumar Singh, who has been assigned the major role, have been granted relief and in fact the Hon'ble Supreme Court in Criminal Appeal No. 1615 of 2013 has held the F.I.R. itself to be not maintainable, and cognizance having been taken upon the said F.I.R., in the considered opinion of the Court, no further discussion is required on the issue. When the Courts have repeatedly held in favour of the accused, with regard to the present case, both on



facts as well as in law, and ultimately the Hon'ble Supreme Court holding that the F.I.R. itself was not maintainable, the criminal prosecution continuing against the petitioner itself would be an abuse of the process of the Court.

11. For reasons aforesaid, the application is allowed. The entire criminal proceeding arising out of Vigilance P.S. Case No. 7 of 2002, including the order dated 22.04.2006, by which cognizance has been taken, as far as it relates to the petitioner, stand quashed.

(Ahsanuddin Amanullah, J)

Anjani/-

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