

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 32157 of 2014

Along with
Interlocutory Application No. 2120 of 2016

Arising Out of Complaint Case No.-56 Year-2010 Thana- MUZAFFARPUR COMPLAINT
CASE District- Muzaffarpur

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1. Rama Prasad Singh, Son of Late Chankarket Singh, Resident of Village- Rahimapur, P.O. Rahimapur, Police Station- Biddupur, District- Vaishali Ex-Panchayat Secretary Andherwara Block Hajipur, Police Station- Rajpakar, District- Vaishali.
 2. Raghunath Bhagat Son of Sri Punit Bhagat, resident of Village- Mustafapur, P.O. Maniyarpur, Police Station- Biddupur, District- Vaishali, Ex-Panchayat Secretary, Andherwara.

... .. Petitioner/s

Versus

1. The State of Bihar through I.G. Vigilance at Old Secretariat, Police Station Secretariat, District- Patna.
2. Sri Rama Shankar Sharma Son of Sri Mahesh Thakur Panch, Resident of Village- Andharwara, Police Station- Rajpakar, District- Vaishali.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. S. R. C. Pandey and Mr. Amit Anand, Advocates
For the Vigilance	:	Mr. Anjani Kumar, Sr. Advocates Mr. Sanjay Kumar, A.C.

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 29-03-2019

Heard learned counsel for the petitioners and learned
counsel for the Vigilance.

2. Despite valid service of notice on opposite party no.
2, nobody appeared on his behalf when the matter was taken up
and heard.

Re.: Interlocutory Application No. 2120 of 2016



3. The Interlocutory Application No. 2120 of 2016 was filed seeking quashing of the Vigilance P.S. Case No. 76 of 2013 (Special Case No. 45 of 2013) dated 22.11.2013, under Sections 409/420/467/468/471/477(A)/120(B) of the Indian Penal Code and Sections 13(2) and 13(1) (d) of The Prevention of Corruption Act, 1988 (hereinafter referred to as the 'Act') which has been filed in light of the direction of the Court concerned in Complaint Case No. 56 of 2010, directing for lodging of the F.I.R. Since, the same is a consequence of the complaint case, which is under challenge in the main application, the prayer for quashing of the F.I.R. is allowed. The same shall form part of the relief sought for in the main application.

4. Interlocutory Application No. 2120 of 2016 stands disposed off.

Re.: Criminal Miscellaneous No. 32157 of 2014

5. The petitioners have moved the Court under Section 482 of the Code of Criminal Procedure, 1973 for the following relief:

“That petitioners is directed to quash complaint case no. 56 of 2010, pending in the court of Special Judge Vigilance North Bihar at Muzaffarpur.”

6. The allegation against the petitioners and four others in the complaint filed by the opposite party no. 2, under Sections



420 and 406 of the Indian Penal Code and Sections 7/8/11/12/13/13(1) and 13(2) of the Act relates to irregularity in purchase of solar panels. The petitioners at the relevant time were posted as Panchayat Secretary in the concerned Panchayats in the District of Vaishali.

7. Learned counsel for the petitioners submitted that a complaint filed by a private person under the Prevention of Corruption Act against a public servant cannot proceed unless there is proper sanction by the competent authority. It was submitted that in the present case, the petitioners, who were Panchayat Secretary, being public servants, as defined under Section 2(c) of the Act are protected from prosecution without previous sanction of the State Government in terms of Section 19(1)(b) of the Act. Learned counsel submitted that even referring the matter to the Vigilance for investigation or subsequently directing for lodging of a full-fledged F.I.R., is beyond the jurisdiction and competence of the Court in absence of such sanction under the Act. For such proposition, learned counsel relied upon the decision of the Hon'ble Supreme Court in **Anil Kumar v. M. K. Aiyappa** reported as (2013) 10 SCC 705.

8. Learned counsel for the Vigilance very fairly submitted that the contention of learned counsel for the petitioners



is correct. He also referred to the decision of a Bench of this Court dated 29.03.2018 in Cr. Misc. No. 31414 of 2015 in the case of **Dr. Nehal Akhtar @ Dr. Md. Nehal Akhtar vs. The State of Bihar and Another**, for the proposition that both for preliminary enquiry as well as for lodging of F.I.R. under the Act, prior sanction of the Competent Authority is required.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the orders of the Court, impugned in the present application, cannot be sustained.

10. Accordingly, the application is allowed. The entire criminal proceeding arising out of Complaint Case No. 56 of 2010, pending before the Special Judge, Vigilance, North Bihar at Muzaffarpur as well as the F.I.R. of Vigilance P.S. Case No. 76 of 2013 (Special Case No. 45 of 2013), including all orders passed therein stand quashed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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