

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.952 of 2016

In
Criminal Miscellaneous No.3406 of 2016

Arising Out of PS. Case No.-79 Year-2015 Thana- C.B.I CASE District- Patna

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Ranjeet Paswan, son of Shri Ramswaroop Paswan, resident of village-Chamangarh, Post-Bariyarpur, Police Station-Naya Ramnagar, District-Munger at present posted as District Programme Officer, East Champaran, Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Vigilance Investigation Bureau, through Superintendent of Police-cum-Officer Incharge, Vigilance Police Station, 6-Circular Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. B. K. Sinha, Sr. Advocate
For the Respondent-State:		Mr. Mritunjay Kumar Nirala, APP
For the Respondent-Vigilance:		Mr. Ajay Mishra, AC to Law Officer, Vigilance

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 07-01-2019

Heard Mr. B.K. Sinha, learned senior advocate for the petitioner and Mr. Ajay Mishra, learned counsel for the Vigilance.

2. This writ petition has been filed by the petitioner under Articles 226 and 227 of the Constitution of India for quashing of the first information report of Vigilance P.S. Case No.79 of 2015 dated 19.09.2015 registered under Sections 420, 201, 120B of the Indian Penal Code and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act.

3. It is submitted by Mr. B.K. Sinha, learned senior advocate for the petitioner that in course of investigation no



evidence against the petitioner could be collected by the investigating agency but still the police have not submitted final form against him and the investigation is still pending. He submitted that the petitioner is innocent and from the documents annexed with the writ petition, it would be evident that his implication in the first information report is totally misconceived. In support of his submission, he has drawn my attention towards the observations made in the order dated 07.11.2015 passed by the learned Special Judge, Vigilance whereby he has granted bail to the petitioner.

4. On the other hand, learned counsel appearing for the Vigilance submitted that the materials collected in course of investigation would form the basis for the police report to be submitted under Section 173(2) of the Code of Criminal Procedure. However, quashing of the first information report would depend on the allegations made in the first information report. He contended that the allegations made in the first information report do attract ingredients of cognizable offences and in that view of the matter, no illegality can be found either with the institution of the first information report or its investigation. He submitted that the defence taken by the petitioner cannot be made a ground for quashing the first information report.



5. I have heard learned counsel for the parties and carefully perused the materials available on record.

6. I find substance in the submission made by the learned counsel for the Vigilance.

7. The allegations made in the first information report do attract ingredient of cognizable offences. It is immaterial as to whether in course of investigation materials adverse to the petitioner have been collected or not. In case, the police would come to the conclusion that the petitioner is innocent, they may submit a final report holding him to be innocent. However, if materials are collected against the petitioner, the police may submit charge-sheet against him. Till then the petitioner cannot claim his innocence on the basis of part investigation of the police, as investigation is confidential. An accused in a criminal case can not even claim any access to the material collected during investigation until report under Section 173(2) Cr.P.C. is submitted before the court and statements of witnesses recorded under Section 161(3) of the Cr.P.C. and the documents on which reliance is placed by the investigating agency are supplied to the accused under Section 207 of the Cr.P.C.



8. Moreover, any observation made by a court while granting bail to an accused would be of no consequence as far as the merit of the case is concerned.

9. Since I have already stated above that there are materials in the first information report, which attract ingredients of cognizable offence, the institution of the first information report or its investigation cannot be held to be bad.

10. To hold investigation into a cognizable offence is statutory right of a police. At this stage, neither the accused nor the Court has any role to play for the purpose of quashing of first information report.

11. In that view of the matter, I see no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.01.2019
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