

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1039 of 2019

Arising Out of PS. Case No.-21 Year-2014 Thana- C.B.I CASE District- Patna

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Bijay Kumar Bimal, S/o Sri Pulkit Prasad Yadav, R/o Mohalla-Vidyapuri,
S.B.I. Road, Ward No. 18, P.O.- Madhepura, P.S.- Madhepura, District-
Madhepura.

... .. Petitioner

Versus

1. Central Bureau of Investigation through the Superintendent of Police,
Central Bureau of Investigation, Anti Corruption Branch, Patna
2. The Superintendent of Police, Central Bureau of Investigation, Anti
Corruption Branch, Patna
3. The Deputy Superintendent of Police, Central Bureau of Investigation, Anti
Corruption Branch Patna.
4. The Inspector of Police-cum-Investigation Officer Central Bureau of
Investigation, Anti Corruption Branch, Patna

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. S.B.K. Mangalam, Advocate

Ms. Anita Kumari, Advocate

For the Respondents-State: Mr. Bipin Kumar Sinha, SC, CBI

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 08-07-2019

In the instant case, the petitioner has challenged the order dated 20.05.2016 passed by the learned Special Judge, CBI-III, Patna in Special Case No.11 of 2014 arising out of R.C. No.21A of 2014 so far it relates to the petitioner whereby the learned Special Judge has differed with the police report submitted under Section 173(2) of the Code of Criminal Procedure (for short 'CrPC') and summoned the petitioner to face trial.

2. At the outset, a preliminary objection has been taken by the learned counsel for the CBI regarding maintainability of the



instant application under Articles 226 and 227 of the Constitution of India. He submitted that the order impugned is a final order, which was passed in 2016 against which, the petitioner could have filed a revision under Sections 379 and 401 of the CrPC within ninety days, but he has chosen not to prefer revision. He has further contended that the petitioner has also remedy under Section 482 of the CrPC, but instead of invoking the statutory remedy available to the petitioner he has filed the instant application under Articles 226 and 227 of the Constitution of India.

3. Having regard to the objection taken by the learned counsel for the CBI, since an equally efficacious statutory remedy is available to the petitioner under Section 482 of the CrPC, I am not inclined to entertain this application in exercise of powers conferred under Articles 226 and 227 of the Constitution of India.

4. The application is dismissed with liberty to the petitioner to challenge the order impugned by way of filing an application under section 482 of the CrPC.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.07.2019
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