

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1172 of 2019

Arising Out of PS. Case No.-10 Year-1996 Thana- VIGILANCE District- Patna

Sushil Kumar, S/o Late Chandra Bhushan Prasad Sinha R/o Adarsh Colony,
Road No. 3, Khemni Chak, P.S.- Ram Krishna Nagar, District- Patna-800027.
... .. Petitioner

Versus

1. The State of Bihar through D.G. Vigilance Investigation Bureau, Bihar.
2. Director General, Vigilance Investigation Bureau, Bihar, Patna.
3. Superintendent of Police, Vigilance Investigation Bureau, Bihar, Patna.
4. Station House Officer, Vigilance Investigation Bureau, Bihar, Patna.
5. Punjab National Bank through its Branch Manager- Kankarbagh, Doctor's Colony, P.S.- Kankarbagh, Patna- 800020.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Arun Kumar Sinha-Advocate Mr. Amit Narayan-Advocate Mr. Daya Shankar Prasad Sinha-Advocate Mr. Rajiv Kumar-Advocate
For the Vigilance	:	Mr. Sanjay Prasad-Advocate
For the P.N.B.	:	Mr. Mritunjay Kumar-Advocate

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

06-11-2019

Heard learned counsel for the petitioner, learned
counsel for the Vigilance and learned counsel for the respondent
no.5.

2. The petitioner has filed the present writ
application for quashing the order dated 07.03.2019 passed by
the learned Special Judge, Vigilance-1st, Patna in Special Case
No.13 of 1996 whereby the application of the petitioner for
release of bank locker key has been rejected. He has further
prayed for direction upon the respondent no.5 to allow the
petitioner to operate his Bank Locker No.812, Key No.30.



3. Learned counsel appearing for the petitioner submitted that the petitioner has not been made accused in any criminal case. His father late Chandra Bhushan Prasad Sinha was made accused in Special Case No.13 of 1996 arising out of Vigilance P. S. Case No.10 of 1996 registered under Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act. During investigation in that case, on 27.04.1996, the Investigating Officer of the case, namely, Upendra Kumar Sinha along with Sri Krishna Vijay Singh, the then Deputy Superintendent of Police, Vigilance, Patna searched the joint family-house of Late Chandra Bhushan Prasad Sinha. During search, the vigilance team seized four articles from the house. Out of the four articles, one was a bank locker key no.30 of locker no.812 of Punjab National Bank, Kankarbagh (Doctor's Colony) Branch, Patna. The said key belongs to the petitioner as the bank locker has been allotted to him and it stands in his name.

4. He submitted that after seizure, a copy of the same was served to the mother of the petitioner. The petitioner is in banking service since 1994 and is maintaining bank locker on his own expense. The bank locker key is the individual property of the petitioner. His father died on 08.07.2008.



Thereafter, the learned Special Judge vide order dated 30.03.2009 dropped the criminal proceedings against him. On 01.06.2018, the petitioner filed a petition for release of the bank locker key, but the same was rejected vide impugned order dated 07.03.2019.

5. Learned counsel for the petitioner urged that the order passed by the Court is erroneous and fit to be set aside. He contended that on perusal of the counter-affidavit filed on behalf of the vigilance and the bank, it would be evident that neither the bank nor the vigilance has any objection to the prayer of the petitioner for allowing him to operate his bank locker.

6. Learned counsel appearing for the vigilance submitted that the vigilance has got no objection if the bank allows the petitioner to operate his locker. However, he contended that the key no.30 of locker no.812 is not available in the Malkhana of the vigilance.

7. At this stage, it would be relevant to extract Para-12 to 14 of the counter-affidavit filed on behalf of the Vigilance in the present case herein under:-

“12. That, Sri Sudhir Kumar, Inspector cum Malkhana In-charge, Vigilance Investigation Bureau, Patna has informed the S.P., Vigilance Investigation Bureau, Patna through his letter dated 07.02.2018, that material exhibits of Vigilance



P. S. Case No.10/96 (M.R. No.-126/2007) has been handed over to the Special P.P. Sri Krishna Murari Prasad on 13.04.2016 save and except Key No.30 of Bank Locker, which was not found in the Malkhana.

A copy of the letter of Sri Sudhir Kumar, Inspector cum Malkhana In-charge, Vigilance Investigation Bureau, Patna is being annexed herewith and marked as Annexure-C to this counter affidavit.

13. That, in this regard the S.P., Vigilance Investigation Bureau, Patna has informed the Learned Special Court Vigilance-1, Patna that the key No.30 of Locker No.812 is not deposited in the Vigilance Malkhana. Hence, the court was requested to issue an order for the operation of the said Bank Locker.

A copy of S.P., Vigilance Investigation Bureau, Patna, Letter No.8952 dated 03.10.2018 addressed to the Ld. Court is being annexed herewith and marked as Annexure-D to this counter affidavit.

14. That, the respondent (no.-02 to 04) admits the gross lapse of Sri Krishna Vijay Singh, the then Dy. S.P., Vigilance Investigation Bureau, Patna who not only did not mention the correct Locker No.812 against the seized Key



No.30, in the seizure list dated 27.04.96 but also the said key of Locker is not available in Malkhana of Vigilance Investigation Bureau and it is missing.”

8. It would be evident from the aforestated stand of the vigilance that though key in question was seized by them due to lapses on the part of one of its officers neither the actual locker was mentioned in the seizure list nor the key was deposited in the Malkhana.

9. The Bank has also filed its counter-affidavit. Paras-5 to 9 of the counter-affidavit filed on behalf of the respondent no.5 are set out herein under:-

“5. That without entering into parawise comments upon the writ application, it is respectfully stated that the Locker No.812 Key No.30 has been allotted to Sushil Kumar Sinha having P.F. No.-81623 since 1994 under staff capacity.

6. That it respectfully stated that the petitioner is paying rent towards maintenance of the said locker from his own account and has paid up-to-date. Last rent has been received on 07.01.2019.

7. That said Locker No.812 Key No.30 has been used by the petitioner last time on 17.04.1996, since then the same has not been used by the petitioner.



8. That it is respectfully stated and submitted that in the case of availing the service of locker, key is issued/ handed over/ allotted to the customer and Master key is kept with the bank. If a customer wants to open his locker then firstly, the customer has to apply his key to open the locker thereafter, the Master Key of the Bank is applied and if the combination of both keys is correct, then the locker opens. Locker can not be opened by applying any key singly.

9. That it is respectfully submitted that if this Hon'ble Court directs the respondent no.5 to allow to operate the Locker no.812 Key no.30 to the petitioner then the respondent bank will allow the petitioner to operate the same. The vigilance has never directed the bank to allow the petitioner to operate the Locker No.812 Key No.30."

10. Considering the submissions made on behalf of the parties and the stand taken by the respondents in their counter-affidavit, no useful purpose would be served by quashing the order passed by the court below and directing the vigilance to release the key no.30 related to locker no.812 of Punjab National Bank, Doctor's Colony, Kankarbagh Branch, Patna to the petitioner as the key itself is not available in the Malkhana of the vigilance. The vigilance has taken a plea that



the material exhibits of Vigilance Case No.13 of 1996 was handed over to the Special Public Prosecutor Sri Krishna Murari Prasad on 13.04.2016, save and except, key no.30 of bank locker, which was not found in the Malkhana. Once the vigilance itself admits loss of the key and has raised no objection to the operation of the bank locker by the petitioner, this Court is of the opinion that the alternative prayer made by the petitioner for directing the respondent no.5 to allow the petitioner to operate the bank locker has to be allowed.

11. Accordingly, the respondent no.5, Branch Manager, Punjab National Bank, Kankarbagh (Doctor's Colony) Branch, Patna is hereby directed to allow the petitioner to operate his bank locker no.812 after providing him a duplicate key no.30 for which, the bank may realize the charges from the petitioner in accordance with law.

(Ashwani Kumar Singh, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07.11.2019
Transmission Date	07.11.2019

