

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1147 of 2019

In
CRIMINAL MISCELLANEOUS No.44202 of 2019

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Co-ordination Committee of three Association of Lawyers of Patna High Court through its Chairman Yogesh Chandra Verma, age 75 years (M), S/o- Late P.C. Verma having its Office at Library of Advocate Association, P.S.- Patna Kotwali, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The High Court of Judicature at Patna through its Registrar General, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Yogesh Chandra Verma, Senior Advocate
		Mr. Anuj Kumar, Advocate
For the Respondent/s	:	Mr. Piyush Lall, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-09-2019

The appeal by the Co-ordination Committee of the Bar Associations of the Patna High Court has brought forth a challenge to the directions issued by the learned Single Judge in a writ petition vide order dated 22nd July, 2019 whereby certain directions have been issued to the Office of the High Court relating to carrying out of corrections in petitions that have been filed and defects which are required to be corrected.



The challenge raised is to the following observations made by the learned Single Judge:-

“Before I part with the present order, I must point out one peculiar aspect of the present proceeding. In paragraph 3 of the application, there was an averment made that the petitioner had no criminal antecedent. Subsequently, the said statement has been altered manually with use of pen and ink stating that there is one more case pending against him. The correction so made in paragraph 3 of the application with pen does not bear even the initials of the learned counsel for the petitioner. Similarly in paragraph 10 of the application part of 4th line has been struck off, again manually.

Learned counsel for the petitioner has pointed out that such corrections have been incorporated, pursuant to the order of the Lawzima Board so as to remove the defects. I do not have any reason for not accepting the explanation which has been put forth by the learned counsel for the petitioner for making the corrections nor I doubt his bona fide. This is, however, to be kept in mind that the effect of correction made by the learned counsel for the petitioner in paragraph 3 of the application is changing the very statement in the application itself which was made by the deponent on oath. The facts stated in an application are sworn, under High Court Rules, before an Oath Commissioner and though a



clerical/typographical error may be corrected with the leave of the Court, in my view, the body of the application which contains the facts stated on oath cannot be changed by any means, except by filing a supplementary affidavit.

The Office is directed to ensure that such practice is not allowed in future and if any correction is required in the body of the application, the same must be done either by filing a supplementary affidavit on oath or with the leave of the Court in special circumstances.”

A perusal of the impugned order extracted above would indicate that the learned Single Judge had come across a correction made in the sworn part of the main petition relating to the criminal antecedents of an accused. The learned Judge accepted the bonafides of the corrections, but in our opinion, rightly observed that any statement on oath made by a deponent cannot be corrected by a learned counsel in his handwriting and that too, even without the signature of the Oath Commissioner and which, in our opinion, can only be corrected by a duly sworn affidavit.

However, Shri Yogesh Chandra Verma, learned Senior Counsel and the Chairman of the Committee stated that minor corrections in the array of parties or in the cause title should be permitted to be carried out by the learned counsel so



that no inconvenience may be caused in respect of such minor corrections which has been usual practice of the Court.

The difficulty which at times is faced by the office and it has been experienced on the judicial side by us that even such corrections in the cause title have created complications, particularly in criminal cases where for example in second bail applications or bail applications of co-accused, the application is filed by altering the name of the police station or case crime number. We do not wish to say that it is done in every case, but such attempts have led to suspicion of deliberate attempt to avoid the impact of previous orders.

We may point out that in Cr. Misc. No.18211 of 2016, a serious discrepancy had been noted with regard to alteration of particulars in the cause title itself that gave rise to a detailed enquiry being conducted under the orders passed by the Court on the judicial side on 07.06.2016. The details whereof can be gathered from the order dated 08.06.2016 passed in the said Criminal Miscellaneous Application where the learned Judge, after having noted the reports observed, issued directions, the extract whereof is quoted hereinunder:-

vii) After having seen the report submitted by the learned Registrar (Vigilance), I am of the prima facie view that the parties get a chance to



commit fraud after they take their applications back in the name of removal of defect(s) after initial stamp reporting. To stop that, I direct that from today itself, no copy of bail application shall be returned after stamp reporting and the defect(s), if any, shall have to be removed by the respective learned Counsel in the Registry itself, which shall be done under the surveillance of CCTV.

(viii) All the applications for grant of anticipatory bail or regular bail shall, henceforth, be filed along with the certified copy of the respective First Information Report. This will be subject to decision, if any, taken in future by High Court on the question of necessary amendments in the Patna High Court Rules. For the said purpose, let this order be placed before Hon'ble the Acting Chief Justice.

(ix) It is further directed that henceforth, it will be the responsibility of learned Advocate-on-Record, before filing an application for anticipatory bail or regular bail, to cross-check and verify the correctness of statement, if any, that prior to filing of the said application, the petitioner had not filed any such application before this Court, on the basis of the information available on the website of this Court or otherwise.”

It is for this reason that the learned Single Judge appears to have issued such directions to the office that if any



correction is required, the same must be done by filing a supplementary affidavit.

What we find is that the learned Single Judge in the impugned order has made observations only in respect of body of the application and not in respect of any such bonafide minor corrections in the cause title or in the array of parties. We, therefore, clarify that any minor correction duly counter signed by the Advocate can be accepted, but the office should point out such corrections in its report.

So far as filing of affidavits is concerned, Shri Verma urged that it becomes difficult to call clients again for swearing of an affidavit and it causes immense hardship and impediment in the filing of petitions. We may clarify that it is not necessary that the client himself should file an affidavit and the learned counsel can himself move an application through an affidavit of his own Clerk for carrying out such minor or typographical corrections in the main body of the petition/application which are obvious and do not tend to change the nature and original tenor of the pleadings duly sworn by the deponent.

The appeal stands disposed of with a further observation that in the event, any such future instructions are



required, the same shall be dealt with on the administrative side by the High Court after bringing it to the notice of Hon’ble the Chief Justice.

The appeal is disposed of by clarifying the order of the learned Single Judge as indicated above.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

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