

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1480 of 2019

Arising Out of PS. Case No.-51 Year-2018 Thana- VIGILANCE District- Patna

Awadhesh Kumar Singh, Son of Raja Prasad Singh, Resident of 305,
Santosha Complex, Bandar Bagicha, Frezar Road, Patna, Bihar-800001.

... .. Petitioner

Versus

1. The State of Bihar through the Superintendent of Police-cum-Officer-in-Charge, Vigilance Investigation Bureau, Bihar, Patna
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Joint Secretary, Department of Health, Government of Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioner : Ms. Mayuri, Advocate
For the Respondents-State: Mr. M. Nasrul Huda Khan, SC-1
For the Respondent-Vigilance: Mr. Anjani Kumar, L.O. I/c Vigilance

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 08-11-2019

Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the Vigilance.

2. The petitioner allegedly demanded a bribe of Rs.60,000/- from Dr. Ram Babu Khetan to revoke the suspension of the license of his shop, which was suspended by the Assistant Drug Controller. The complaint made by Ram Babu Khetan was verified by an officer of the Vigilance Investigation Bureau. The verification report submitted by the officer authorized suggested that the allegation made in the complaint was true. Thereafter, Vigilance P.S. Case No.51 of 2018 dated 28.11.2018 was registered and a trap was led after



preparing pre-trap memorandum. The trap team apprehended the petitioner red-handed while accepting bribe of Rs.60,000/-. Thereafter, a post-trap memorandum was prepared and the petitioner was forwarded to judicial custody.

3. Upon completion of investigation, charge-sheet has already been submitted vide charge-sheet no.6 of 2019 dated 25.01.2019. However, the report submitted by the investigating officer before the court of Special Judge, Vigilance would suggest that order granting sanction for prosecution has not yet been received.

4. In the instant application, the prayer of the petitioner is to direct the respondents to conduct a proper and unbiased inquiry in Vigilance Case No.51 of 2018.

5. Learned counsel appearing for the petitioner has tried to persuade me that the investigation conducted by the investigating agency so far was not proper, fair and impartial. She submitted that the finger print of the petitioner over the currency notes recovered while accepting bribe was never sent for examination by any expert. The non-examination of the finger print is a lacuna, which may prejudice the defence of the petitioner in course of trial. She has further contended that the solution in which the fingers of the petitioner were dipped were



also sent for forensic examination after much delay and, thus, the authenticity of the Forensic Science Laboratory report is also doubtful. On the basis of the aforesaid submissions, she contended that an order be passed for further investigation into the case.

6. On the other hand, learned counsel appearing for the Vigilance submitted that there is no material to suggest that the investigation conducted by the investigating agency was not fair or impartial. He contended that the petitioner is unnecessarily trying to delay the disposal of the case by way of filing frivolous applications. He submitted that the ocular statement made by the petitioner regarding the bona fide of investigation is not supported by any documentary evidence. The petitioner can not set the terms of investigation. An accused can not compel the investigating agency to obtain expert report regarding the finger print on the currency notes in a case of accepting bribe. He has contended that the defence taken by the petitioner at this stage is totally misconceived. The stage of defence would start after the prosecution leads its evidence. Further, the defence of the accused can be appreciated by the court during trial and the same can not be made a ground for directing the police to investigate the case further.



7. Having heard the parties, I find substance in the submissions made by the learned counsel for the Vigilance.

8. There is no material on record to doubt the bona fide of the investigation. A further investigation can be ordered by the court only if further evidence is received by the police after the investigation is completed and a report under Section 173(2) of the Cr.P.C. is filed before the court. At this stage, it can not be said that the investigation conducted by the vigilance is incomplete. There is also no material to suggest that there is recovery of any fresh material for which a further investigation is needed. It is rightly argued by the vigilance that an accused in a criminal case can not set the terms of investigation. An investigation into a cognizable offence is the exclusive domain of the police.

9. In that view of the matter, I see no merit in this application.

10. The application is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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