

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.3117 of 2018

Arising Out of PS. Case No.-81 Year-2017 Thana- BIKRAM District- Patna

Ashok Kumar Sharma, son of Sri Kamta Prasad Sharma, Resident of Rajapur,
P.S. Bodhgaya, Distt.-Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar, Patna
2. Director General of Police, Bihar, Patna
3. Superintendent of Police, Vigilance Investigation Bureau, Patna
4. Officer-in-Charge, Bikram Police Station, Bikram
5. District Agriculture Officer, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mrs. Nivedita Nirvikar, Advocate
		Mr. Bibhuti Narayan, Advocate
For the Respondent-State:		Md. Shailesh Kumar, AC to GP-5
for the Respondent-Vigilance:		Mr. Ajay Mishra, AC to L.O. I/c Vigilance

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 11-01-2019

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

2. This writ petition has been filed by the petitioner for
quashing the First Information Report (for short 'FIR') of Bikram
P.S. Case No.81 of 2017 registered under Section 13(2) read with
13(1)(c) and (d) of the Prevention of Corruption Act, 1988 and
sections 467, 468, 419, 420 and 409 of the Indian Penal Code.

3. Learned counsel for the petitioner submitted that the
allegations made in the FIR are malicious in nature. For the self-
same charges, a departmental proceeding was also initiated against
the petitioner, but no evidence could be collected in support of the



charges. However, the departmental proceeding has been kept pending awaiting the final outcome of the investigation of the instant FIR. She submitted that the entire amount withdrawn by the petitioner was distributed or spent amongst the beneficiaries and the allegation that after withdrawal of the amount, the same was not spent is totally false.

4. On the other hand, learned counsel appearing for the Vigilance submitted that the allegations made in the FIR do attract ingredients of the cognizable offence punishable under the penal code as also under the various provisions of the Prevention of Corruption Act. He submitted that since the allegations made in the FIR disclosed ingredients of cognizable offence, no illegality can be found in the action of the police whereby an FIR has been instituted against the petitioner.

5. I have heard learned counsel for the parties and perused the FIR as contained in Annexure-1 to the present application.

6. The allegation made in the FIR is that the petitioner being the Block Agriculture Officer has defalcated Rs.52,50,000/- of Shri Vidhi Yojna of the year 2013-14 by not making payment of subsidy and distribution of fertilizers and pesticides amongst the



farmers. The FIR was instituted pursuant to preliminary inquiry conducted by the Agriculture Department.

7. The allegations made in the FIR do attract the ingredients of the offences alleged. The offences are cognizable in nature.

8. To hold investigation into a cognizable offence is the statutory right of the police. At this stage, the Court has no role to play. The role of the Court starts only after the investigation is over and a report under Section 173(2) of the Code of Criminal Procedure is submitted in the court. At that stage, the concerned court could apply its mind as to whether there is prima facie material to summon the accused or not.

9. Since there is no illegality either in institution of the FIR or in investigation of the case, the prayer made by the petitioner cannot be allowed. However, the investigating agency is expected to complete the investigation within a reasonable time.

10. With the aforesaid observation, the writ petition is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.01.2019
Transmission Date	16.01.2019

