IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83062 of 2019

Arising Out of PS. Case No.-19 Year-2013 Thana- C.B.I CASE District- Patna

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SMT. ALISHA VERMA Wife of Sri Sanjeev Kumar, Resident of Village - Telhara, Police Station - Telhara, District - Nalanda.

... ... Petitioner/s

Versus

The Central Bureau Of Investigation through the State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Sunil Kumar Singh
For the Opposite Party/s : Mr.Bipin Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 16-12-2019

The present petition has been filed for quashing the order dated 02.12.2019 passed by the learned Special Judge, C.B.I., Patna, whereby and where-under the discharge petition dated 03.04.2018 filed by the petitioner in connection with R.C.-19(A)/2013, has been dismissed.

2. The brief facts of the case are that the Deputy Superintendent of Police, C.B.I., ACB, Patna had lodged an FIR dated 20.09.2013 bearing RC-19(A)/2013 for the offence punishable under Sections 120-B, 419, 420, 467, 468 and 471 of the Indian Penal Code read with section 13(2) read with section 13(1) (d) of the P.C. Act, 1988, inter alia alleging therein that reliable information has been received to the effect that in the year 2013, the accused persons including the petitioner herein and other unknown public servant as well as private person have

entered into a criminal conspiracy with an object to fraudulently cheat the Regional Rural Banks in respect of conduct of the competitive examination for recruitment of the officers in Scale-I for the Regional Rural Banks. It has been alleged that the accused public servant have conspired together and by abusing their official position, they have sought illegal pecuniary gain. It has been further alleged that the petitioner and her husband Sanjeev Kumar have committed the offence of cheating, forgery, impersonation and have fraudulently got undeserving candidates to succeed in the recruitment examination by taking huge money in exchange and facilitating government jobs for such candidates. It is alleged that the accused persons used to plant meritorious candidates by impersonating the actual examinees for the purposes of appearing in the examination by using fraudulent means and manufacturing photographs by mixing and morphing the photographs of the candidates with their substitutes. It has been further alleged that huge illegal amount has been promised to be paid per month to the substitute candidates for the purposes of forgery planned to be done by them. The petitioner is stated to be the Probationary Officer in the UCO Bank and is stated to be having complicity in the matter and is stated to have engaged in the aforesaid fraudulent means and conspiracy/ occurrence.

3. A bare perusal of the record shows that the C.B.I. has filed a charge sheet against the accused persons including the petitioner herein, wherein upon investigation, the CBI has caught some persons impersonating the actual candidates and has also collected other materials during the course of investigation including call details of mobiles, recording of telephone conversation etc. and the voice sample of the accused persons including the petitioner herein have also been taken and sent to the FSL for comparison with the one recorded by CBI, SU, New Delhi, report whereof is awaited. The CBI has filed charge sheet against the petitioner and others under Section 120B, 419, 420, 467, 468 and 471 of the Indian Penal Code, finding the case to be prima facie true as against them.

4. The petitioner has assailed the impugned order dated 02.12.2019, whereby and where-under the discharge petition filed by the petitioner under Section 239 Cr. P.C. has been rejected. It is submitted by the learned counsel for the petitioner that the allegation levelled against the petitioner is false, concocted and baseless and the petitioner is a lady, who was appointed on 18.02.2013 as Probationary Officer in UCO Bank, Biharsharif (Nalanda) Branch and she has been falsely

implicated in the present case only on the basis of mere suspicion and, in fact, there is no material on record to show her complicity in the alleged fraud. It is further submitted that the petitioner has been falsely implicated in this case only on the basis of telephonic conversation in between the petitioner and her husband, namely Sanjeev Kumar, hence the petitioner is liable to be discharged of the offence alleged.

6. I have heard the learned counsel for the petitioner and perused the materials on record as also have gone through the impugned order dated 02.12.2019 from which it is apparent that there are ample materials in case diary to suggest the complicity of the petitioner in the alleged crime and there is evidence of conversation in between the petitioner and her husband wherein she has been found speaking categorically about manipulation and interpolations to be made in the Admit Card and engagement of the scholar and the illegal gratification amount to be taken to the tune of Rs. 14-15 lacs from the candidates for their recruitment as also many such conversations which clearly suggest about the complicity of the petitioner in the alleged crime. Thus, this Court finds that in view of the filing of the charge sheet against the petitioner by CBI, a prima facie case has been found against the petitioner herein so as to

proceed further, as against her, hence the discharge petition of the petitioner has rightly been rejected by the learned court below by the impugned order dated 02.12.2019, especially on account of the fact that the same neither suffers from any legal infirmity or jurisdictional error or any arbitrariness so as to warrants interference with the same.

7. At this juncture, it would be relevant to mention here that it is a well settled law that the Courts should be slow in interdicting the trial against the accused persons and the accused persons should be discouraged from protracting the trial and preventing culmination of the criminal cases by resorting to uncalled for and unjustified litigation. It is equally a well settled law that at the stage of framing of charge or while considering the discharge petition filed under Section 239 Cr.P.C., it is not for the Magistrate or the Judge concerned to analyze all the materials including the pros and cons, reliability or acceptability etc. and the learned Judge concerned has to appreciate their evidentiary value, credibility or otherwise of the statement, veracity of various documents at the time of trial and take a decision one way or the other. Thus, the court below has to be prima facie satisfied as to whether there is sufficient ground for proceeding against the accused and at the stage of considering

the discharge petition under Section 239 Cr.P.C., the standard of test, proof and judgment, which is to be applied finally before finding the accused guilty or otherwise, is not exactly to be applied inasmuch as the prosecution evidence is yet to commence.

8. Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, I do not find any infirmity in the impugned order dated 02.12.2019 passed by the learned court of Special Judge, CBI, Patna in connection with R.C.-19(A)/ 2013, hence the present petition stands dismissed being devoid of any merit.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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