

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1094 of 2016

Arising Out of PS. Case No.-6 Year-2011 Thana- SIKTI District- Araria

Vinod Kumar Paswan Son of Gore Lal Paswan Resident of Village- Madhura West, Police Station- Fulkaha Narpatganj, District- Araria.

... .. Petitioner/s

Versus

1. The State Of Bihar Through District Magistrate, Araria
2. The Executive Officer, District Board, Araria.
3. The Additional Chief Executive Officer, District Board, Araria.
4. The Officer-in-Charge, Police Station Sikty, Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ramesh Kumar Singh, Adv.
For the Respondent/s : Mr.Ruchikar Jha, AC to SC-8

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 20-02-2020 Petitioner in the present case is seeking quashing of the entire criminal prosecution arising out of Sikty P.S. Case No.06 of 2011 instituted for the offence punishable under Section 420 and 406 of the Indian Penal Code.

According to the FIR, the petitioner while being posted as Junior Engineer in the office of the Zila Parishad, Araria had received various advances for construction of Basic Oriental Training Centre Building under Swarn Jayanti Gram Swarojgar Yojna. The allegation has been made that the petitioner did not complete the building and the incomplete building also got damaged.

It appears that after investigation police has submitted



a charge-sheet whereupon the learned Magistrate took cognizance of the offence under Sections 420 and 406 of the Indian Penal Code vide order dated 01.08.2014.

Learned counsel for the petitioner has submitted that the prosecution of the petitioner is only a malafide attempt to save other persons who are trying to save their own skin. It is submitted that the petitioner had carried out the work to the tune of Rs.5,54,797/- and this fact was brought to the notice of the police but the charge-sheet has been filed in a routine and mechanical manner on which cognizance has been taken.

It however appears on perusal of the prayer made in the writ application that the petitioner has not specifically challenged the order taking cognizance and none of the grounds taken in the writ application may be accepted by this Court for purpose of quashing of the prosecution of the petitioner at this stage.

At this stage, learned counsel for the petitioner submits that since the Court is not inclined to interfere with the prosecution and order taking cognizance, he may be permitted to raise all such issues which are available to the petitioner at the time of framing of charge.

Learned counsel for the State has no objection to the



petitioner availing his remedy of discharge at an appropriate stage in the proceeding.

In the given facts and circumstances of the case, this Court finds no reason to interfere with the order taking cognizance and issuance of summons to the petitioner as no ground for interference is made out. The writ application as framed is not fit to be entertained, however, it is disposed of with liberty to the petitioner to seek his remedy at an appropriate stage in the court below at the time of framing of charge and raise all such issues which are available to him which will be considered by the court below in accordance with law and on the basis of the materials available on the record.

(Rajeev Ranjan Prasad, J)

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