

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
Criminal Writ Jurisdiction Case No.989 of 2016**

Arising Out of PS. Case No.-35 Year-2014 Thana- C.B.I CASE District- Patna

Imtiyaz Jhankar Son of Md. Safiur Rahman resident of Village- Husainabad,
P.S. Moro Basuara, District- Darbhanga.

... .. Petitioner

Versus

1. The State Of Bihar Through Principal Secretary, Home Department,
Government Of Bihar, Patna
2. The Director General, Vigilance, Patna.
3. The Commissioner, Vigilance, Patna.
4. D.I.G., Vigilance, Patna.
5. S.P. Vigilance, Patna.
6. Dy. S.P. Vigilance, Patna.
7. Inspector of Police, Vigilance, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Md. Akram Naiyer, Advocate
For the Respondent/s	:	Mr. Sanjay Kumar, AC to SC 8
For the Vigilance	:	Mr. Arvind Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 26-08-2022 This is the case of the year 2016 seeking quashing of the entire prosecution case of Special Case No. 45 of 2014 for the offences under Sections 7, 8, 13(2) read with Section 13(1)(d) of Prevention of Corruption Act.

When the matter is called out, Mr. Md. Akram Naiyer, learned Advocate prays for time on the ground that his senior counsel is not available for his personal reasons and he does not have the brief of the case.

Since this case is of the year 2016, this Court thinks it just and proper to dispose of the writ application on the basis of



the materials available on the record.

The petitioner in this case happened to be a Sub-Inspector of Police in Alauli Police Station in the district of Khagaria. On 20.04.2014, an accident took place as Highwa Truck of Top Line Company collided with a motorcycle in which two bike riders were died on the spot for which Alauli P.S. Case No. 80 of 2014 dated 20.04.2014 under Sections 279 and 304A of the Indian Penal Code was registered. The petitioner was the Investigating Officer of the said case.

As per the statement made in the writ application, the petitioner being the Investigating Officer of the case requested the Motor Vehicle Inspector, Khagaria to verify the vehicle and submit a mechanical verification report.

It is stated that one Kundan Kumar @ Uren son of Babuan Yadav was informant of another case i.e. Alauli P.S. Case No. 38 of 2014 dated 05.03.2014 under Sections 447, 384, 506/34 IPC and Section 27 of the Arms Act. It is stated that the said Kundan Kumar @ Uren came to the petitioner's office to talk with regard to his case whereafter he was asked to wait for 5 minutes. In the meantime, 5-6 persons came in the petitioner's office suddenly stating themselves as Vigilance staffs and stated that the petitioner is being arrested as he has taken Rs.20,000/- in bribe in Alauli P.S. Case No. 80 of 2014.



The case of the petitioner is that nothing was recovered from the possession of the petitioner but the raiding party arrested him on the ground that Rs.20,000/- was recovered from the possession of a private person namely Kundan Kumar @ Uren. It is his submission that he cannot be charged or made liable for the recovery of the amount from possession of another person. He challenged the memorandum of pre-trap and post-trap as according to him, those have been prepared in complete violation of the provisions of the Code of Criminal Procedure as well as the police manual.

It is the case of the petitioner that he has been wrongly involved in this case under a conspiracy in a planned manner at the instance of persons whose vehicle was taken to the police station as the same was subject matter of an accident. He has submitted that he had not made any demand nor anything was given to him even as there was no recovery from his possession, the raiding party had made a false statement.

Mr. Arvind Kumar, learned counsel for the Vigilance Investigation Bureau has drawn the attention of this Court towards the source information given by one Raju Lal Mehto, copy of the same is attached with the FIR. Said Raju Lal Mehto has alleged that he works as a Munshi in the Top Line Private Company which is engaged in construction work. He has stated that his



vehicle had met an accident and in connection with the same, one FIR has been lodged in Alauli Police Station. It is alleged that whenever he goes to meet the Investigating Officer requesting him to call for an inspection report from the Motor Vehicle Inspector, Khagaria, he asks for a bribe of Rs.20,000/- which the company does not want to pay. This information was furnished on 13.05.2014. On 21.05.2014, the Vigilance Investigation Bureau lodged the FIR after the petitioner and one Kundan Kumar @ Uren were found accepting Rs.20,000/- as bribe money from the informant Raju Lal Mehto.

Learned counsel submits that in this case the present petitioner as well as Kundan Kumar @ Uren have been made accused. The case has been investigated and after finding the same true, a chargesheet no. 62 of 2014 dated 08.07.2014 has been filed whereupon order taking cognizance has been passed on 10th July, 2014 by the learned court below.

Learned counsel submits that thereafter the case is fixed for framing of charge but the accused persons are avoiding their appearance and on most of the occasions, they are filing 317 Cr.P.C. applications. Because of their non-cooperation, the charges have not been framed so far.

In the present case, this Court finds that the allegations against the petitioner is that of accepting bribe. The case has been



found true and the chargesheet has been filed whereupon order taking cognizance and issuance of summon has been passed. The charge-sheet was filed on 08.07.2014 and the order taking cognizance has been passed on 10.07.2014. Neither the chargesheet nor the order taking cognizance is under challenge in this case. A bare reading of the F.I.R. shows that there are allegations of commission of cognizable offences. The learned Special Judge, Vigilance-II has taken cognizance after perusal of the police papers, charge-sheet, case diary and the sanction order. The order taking cognizance has not been assailed specifically. No illegality or infirmity could be pointed out in the order taking cognizance. The submission of the petitioner as regards factual aspects cannot be examined by this Court.

In these circumstances, this Court finds no reason to exercise its extraordinary writ jurisdiction to interfere with the First Information Report and the entire prosecution.

This writ application has, thus, no merit. It is dismissed accordingly.

The learned court below is directed to proceed with the case as it is already almost a decade old. The trial



court shall proceed to take steps towards framing of charge
and further progress shall be made within a reasonable time.

(Rajeev Ranjan Prasad, J)

arvind/-

U			
---	--	--	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

