

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54320 of 2021

Arising Out of PS. Case No.-2475 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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DR.ANIL KUMAR SON OF LATE INDRADEO PRASAD SINGH
RESIDENT OF VILLAGE AND POST OFFICER- CHICHAURA, POLICE
STATION- KONCH, DISTRICT- GAYA, AT PRESENT POSTED AS THE
PRINCIPAL INCHARGE, SHERSHAH ENGINEERING COLLEGE,
SASARAM, POLICE STATION- KARGHAR, DISTRICT- ROHTAS

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Singh, Sr. Adv. Mr.Upendra Kumar Singh, Adv.
For the Opposite Party/s	:	Mr.Ajay Mishra, APP
For the Vigilance	:	Mr.Arvind Kumar, Adv. Mr.Jitendra Kumar Rai, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
C.A.V. ORDER

11 09-09-2022 Heard Mr. Sanjay Singh, learned senior counsel for the
petitioner assisted by Mr. Upendra Kumar Singh, Advocate, Mr.
Ajay Mishra, learned APP for the State as also Mr. Arvind
Kumar, learned counsel appearing for the Vigilance assisted by
Mr. Jitendra Kumar Rai, Advocate on behalf of complainant.

The petitioner apprehends his arrest in connection with
Complaint Case No.2475/C/2018, registered for the offence
punishable under Sections 419, 467, 468 and 471 of the IPC.

The prosecution case is based upon the written complaint
filed by complainant Dr. Rajendra Prasad Singh, Assistant
Professor, M.I.T., Muzaffarpur whereby he alleged that accused



Anil Kumar (petitioner) has got promotion on the post of Associate Professor on the basis of altered, fabricated and created documents. It is alleged that petitioner did not participate in the 40th and 43rd U.G.C. Orientation course, conducted by the U.G.C. Academic Staff College, Patna University and produced false training certificate issued from U.G.C. Academic Staff College, Patna University for getting promotion, which belongs to one Anil Kumar, Lecturer in History, Vishwa Bharti Shanti Niketan, West Bengal. It is further alleged that Munna Mishra was an office Assistant and custodian of the record of Academic Staff College, Patna University and he has manipulated the said forged documents and petitioner is enjoying the benefits of his illegal promotion by using false certificate. Due to above reason, the complainant did not get the opportunity of promotion on the higher post.

Learned senior counsel for the petitioner submits that complainant was examined on oath during the enquiry u/s 200 Cr.P.C. and report was called for from Station House Officer (S.H.O.) Pirbahore Police Station and Principal Secretary, Science and Technology Department, Government of Bihar in respect of allegations alleged in complaint petition and after receiving the same, perused the record of the case and took



cognizance u/s 419, 467, 468 and 471 I.P.C. against the petitioner and co-accused Munna Mishra. It is submitted that the petitioner had participated in 43rd Orientation Programme for period 05.04.2005 to 02.05.2005 sponsored by University Grant Commission which was held at Academic Staff College, Patna University, Patna after following the prescribed norms. He had applied for orientation course and after due selection, relieved by the Principal on 31.03.2005 for training, he joined and after completing the Orientation Course, Academic Staff College issued a certificate bearing Registration no.43rd OC/9/2005 on 02.05.2005. The petitioner obtained Grade-A. The Certificate is annexed as Annexure-9 of the complaint petition itself. On 31.03.2011, the petitioner had made an application for his promotion to the post of Associate Professor under Career Advanced Scheme (CAS) before the competent authority i.e. the Principal Secretary, Science and Technology department, Government of Bihar. The departmental screening committee in its meeting dated 13.05.2011, considered the case of promotion and took decision to promote the petitioner to the post of Associate Professor under Career Advance Scheme w.e.f. 31.01.1996. After notification of promotion, one Ram Naresh Prasad filed a complaint in the Court of Special Judge



(Vigilance) No.1, Patna with allegations that the petitioner in conspiracy with the Director of Academic Staff College, Patna University, Patna obtained a fabricated certificate of 43rd orientation course held from 5th April to May 2nd, 2005 and used the same for his promotion. On his complaint, the learned Vigilance Court directed to the Home Secretary, Govt. of Bihar to enquire into the matter and to submit report. The Principal Secretary, Home Department, conducted himself an enquiry in detail and submitted report before the court below. The enquiry officer has noted in his report that the name of the petitioner appeared in registration register at Sl. no.9 as participant of 43rd Orientation Programme. This register contains the photographs and signature of almost all the participants including the accused Anil Kumar (petitioner). The Principal Secretary, Home Department concluded his report that authorities of Department of Science and Technology, Govt. of Bihar are found to have acted bonafidely on the letter containing the verification report of the Director, U.G.C. Academic Staff College, Patna University, Patna about participation of accused Dr. Anil Kumar in the 43rd Orientation Programme before granting promotion. Learned senior counsel further submits that after going through the report, the Vigilance court, Patna came on conclusion that no



offences under P.C. Act is attracted against the accused persons named in the Complaint. So the learned court below dismissed the complaint vide order dated 21.09.2013 with liberty to the complainant to approach the court where ordinary jurisdiction of I.P.C. lies. The complainant approached before this Hon'ble Court against the order dated 21.09.2013 but this Court refused to interfere with the order impugned. The Hon'ble Court also opined that there is nothing except for making sweeping allegations against the accused indulging in corrupt practices.

Learned senior counsel for the petitioner further submits that on 12.01.2012 one Nantun Singh made complain before the Chief Secretary, The Government of Bihar with similar allegation, pursuant to complain, the petitioner had submitted his detailed show-cause. An enquiry was also conducted in which the complainant has appeared with his Advocate. After considering the entire evidence available with the records, the enquiry officer found that there is nothing on record to show that the certificate in question is not genuine. The enquiry officer also formed opinion that due to rivalry between them, such allegations have been made. This fact is evident from the Annexure-30 of the complaint petition itself. It is submitted that the complainant namely Dr. Rajendra Prasad Singh was posted



as the Principal In-charge, Gaya Engineering College, Gaya in year 1992-94. He was found guilty of financial irregularities, corruption, misappropriation and deviation of funds. In the year of 2012, the petitioner had lodged a case against him on the written instruction of department in the capacity of the Special Officer on duty, Gaya Engineering College, Gaya, before the Khijarsarai Police Station. The S.H.O. registered a case bearing Khijarsarai P.S. Case No.166/2012 dated 02.12.2012 u/s 409 and 420 against the complainant namely, Dr. Rajendra Pd. Singh. And, after completing the investigation, a charge-sheet has been submitted by police u/s 409 and 420 I.P.C. bearing Charge-sheet no.100/2015 dated 01.04.2015 against him. Therefore, petitioner has been implicated in this case.

It is further submitted that petitioner was neither the authority nor custodian of certificate issued by the Academic Staff College, Patna University. He was a bonafide participant in 43rd Orientation Programme conducted by Academic Staff College, Patna University, Patna and after completing the training course a certificate was issued to him by the institution. Learned senior counsel for the petitioner further submits that there is no departmental proceeding against the petitioner, no fraud has been established and no action has been taken against



the petitioner till date.

It is further submitted that one Ram Naresh Prasad had filed a complaint petition in the Court of Special Judge, Vigilance No.1, Patna. The Court of Special Judge (Vigilance) No.1, Patna, sent the complaint to the Home Secretary, Government of Bihar, with the direction to enquire into the matter and submit its report to the Court. A petition dated 02.11.2012 filed on behalf of the complainant in Special Vigilance Case No.56 of 2011, praying therein to entrust the enquiry of this case to the Director General of Police (Vigilance) instead of the Home Secretary, was, by order dated 05.12.2012, rejected on the grounds that (i) the enquiry cannot be conducted at the choice of the complainant himself, (ii) that the wing of special economic offences as well as the whole police machinery is under the control of the Home Secretary of the State and (iii) the Home Secretary, Government of Bihar, has enquired into the matter and submitted his report. The enquiry report submitted by the Home Secretary, Government of Bihar, contains the findings of fact that the authorities of the Department of Science and Technology, Government of Bihar, had acted bona fide and had exercised due diligence and followed all procedures to the best of their knowledge and



capacity before granting promotion to the accused Dr. Anil Kumar and that no any monetary transaction between the accused persons for showing any favour to accused Anil Kumar by abusing their position as public servant has been brought to his notice. On the basis of enquiry report the court of Special Judge (Vigilance) No.1, Patna having come to the conclusion that no offences under the Prevention of Corruption Act is attracted and offences related to the Indian Penal Code are not within the domain of this Court, was pleased to dispose of Special Vigilance Case No.56 of 2011 by order dated 21.09.2013. It is evident from perusal of para-5 of the enquiry report that the Home Secretary had called for records pertaining to participation of accused Anil Kumar in 40th and 43rd UGC Orientation Programs conducted respectively during the period from 18.08.2004 to 14.09.2004 and 05.04.2005 to 02.05.2005 by the UGC Academic Staff College, Patna University, Patna and the records related with the promotion of accused Anil Kumar from the Department of Science and Technology, Bihar.

Learned counsel for the Vigilance assisted by learned counsel for the complainant opposed the bail application and submits that petitioner had procured the training certificate without participating either in the 40th or in 43rd UGC



Sponsored Orientation Course to be conducted from 18 August, 2004 to 14 September, 2004 and 05.04.2005 to 02.05.2005 respectively which is subject matter of the recommendations of the proceeding of the Departmental Promotion Committee held on 29.04.2011. Further, Principal Secretary, Science and Technology, Government of Bihar, vide its Letter No.155/Pra.Sa.Ko. Dated 28.12.2018 addressed to ACJM-VII has submitted the report of four pages containing therein 16 Annexures, in which he has categorically stated that petitioner has been promoted on the basis of false and fabricated documents as evident from the letter No.4000 dated 21.06.2014 of the Director, UGC, Academy Staff College.

He further submits that findings of the Principal Secretary, Science and Technology, Government of Bihar as stated in para-3 of this petition, reflect the stand of the complainant whereas opinion of the concerned SHO, Pirbahore has been rejected by the court below indicating in Cognizance Order dated 18.01.2020 that the SHO, Pirbahore has filed a report which is full of ambiguity. It is further submitted that the investigation conducted by the Vigilance Investigation Bureau on the direction of the Chief Minister, Bihar was made and the investigation report, containing the report of the Forensic



Science Laboratory has been submitted to the Vigilance Department, Bihar on 21.07.2020 vide letter No.1753 of the Bureau, which is evident from a perusal of letter No.4337 dated 13.09.2021, issued by OSD, Vigilance Department, Bihar to the Complainant. The report contained in letter No.753 dated 21.07.2020 of the Bureau reiterates the facts that the charges levelled against the petitioner have been found to be proved.

It is further submitted that Principal Secretary, Department of Science and Technology has further, clarified that the report of the Amir Subhani, Principal Secretary cum Enquiry Officer Home Department, Bihar is based on the basis of false statement of fact contained in Letter No. 3621 dated 14.07.2011 (Page no. 97 of the application) issued by Md. Ghsaffar Siddiqui, the then Director, UGC, Academy Staff College, Patna University, Patna and ACCORDINGLY, Principal Secretary, Department of Science and Technology has come to conclusion that the petitioner has taken help/used the forged certificates / document for the purpose of promotion which caused pecuniary loss to the extent of crores of rupees. The U.G.C. vide its letter of 28.02.2013 has clearly mentioned the manipulated and forged document of the petitioner but it was not considered by Amir Subhani, Principal Secretary cum Enquiry Officer Home



Department, Bihar as evident from the finding recorded by Principal Secretary, Department of Science and Technology.

It is further submitted by learned counsel for the Vigilance that in the aforesaid Vigilance Enquiry, it was revealed that the petitioner Dr. Anil Kumar, the then Officer on Special Duty, Gaya Engineering College, Gaya, presently posted as Lecturer in MIT, Muzaffarpur had obtained the forged certificate 43rd oc/9/2005 without appearing in 43rd UGC sponsored orientation programme conducted by UGC Academic Staff College, Patna University in conspiracy with Dr. Ghaffar Siddiqui, the then Director, UGC Academic Staff College, Patna University and others. On the basis of such forged certificate, the petitioner got promotion from Lecturer to pay scale of Assistant Professor.

Heard the parties and perused the materials on record. It is admitted fact that earlier one Ram Naresh Prasad had filed a complaint petition in the Court of Special Judge, Vigilance No.1, Patna, the case after enquiry was dismissed by the court below and held that on perusal of the enquiry report, it is clear that no offence under P.C. Act is made out against the accused persons. Accordingly, the complaint petition was dismissed with liberty to approach the proper court where ordinary jurisdiction



of IPC lies. Later on, on 12.01.2012, one Nantun Singh made complain before the Chief Secretary, the Government of Bihar with the similar allegation. Pursuant to complain, the petitioner has submitted his detailed show-cause. An enquiry was also conducted in which the complainant appeared with his Advocate. After considering the entire evidence available with the records, the Enquiry Officer found that there is nothing on record to show that the certificate in question is not genuine. The Enquiry Officer also formed opinion that due to rivalry between them, such allegation have been made.

Considering this fact, later on, on the order of Chief Minister, Bihar, Vigilance has enquired the matter and found the certificate of petitioner not genuine. Petitioner has retired from the service on 31.03.2022. It is admitted fact that till date no departmental proceeding has been initiated against the petitioner.

Considering this fact that petitioner has retired from the service and till date no departmental proceeding has been initiated, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with



two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/Successor Court in connection with Complaint Case No.2475/C/2018, subject to the conditions as laid down under Section 438(2) of the Cr.P.C., as also the following conditions:-

(1) That the petitioner shall co-operate in the trial.

(2) That he shall submit his passport, if any, before the learned court below and shall not leave the country without the permission of learned court below.

(Anjani Kumar Sharan, J)

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