

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.236 of 2023

Arising Out of PS. Case No.-50 Year-2010 Thana- VIGILANCE District- Patna

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Ashok Kumar Singh Son Of Late Bhubneshwar Prasad Singh R/O Mohalla-
Ward No.27, Line Bazar Road, Rajni Chowk, P.S.- K.Hat, District- Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Cheif Secretary, Government Of Bihar, Patna
2. The Additional Chief Secretary, Road Construction Department, Bihar, Patna
3. Sri Sishir Sinha, The Then Secretary, Road Construction Department, Bihar, Patna
4. The District Magistrate, Araria
5. The District Magistrate, Kishanganj
6. The Superintendent Of Police, Vigilance Investigation Bureau, Bihar, Patna
7. The Additional Police Superintendent, Vigilance Cum-Investigation Officer, Vigilance Investigation Bureau, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Shankar Das, Adv.
For the Respondent/s : Mr. Manoj Kumar Ambastha, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 24-03-2023

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

The present criminal writ application has been filed
for quashing the order dated 06.05.2013 in which the learned
Special Judge, Vigilance-II, Patna took the cognizance against
the petitioner for the offences under Sections 406, 420, 120B of
the I.P.C. read with Section 8 of Prevention and Corruption Act,
1988, as well as the order dated 03.12.2019 passed by the

Special Judge, Vigilance Trap, Bhagalpur, where the process under Sections 82 & 83 issued against him.

Counsel for the petitioner submits that he has described his case no. in the prayer portion.

Counsel submits that the petitioner is an old aged person of about 71 years and has completed the work of the State Government under the banner of M/s Singh Construction and for his payment, he filed a criminal writ petition before this Court for releasing Rs.66,08,876/- alongwith the interest which was allowed in his favour, vide order dated 07.02.2006. It was specific direction to the State Government to ensure the payment of the dues re-commended by Liability Committee within a period of 2 months from the date of order without interest. But in case of non-payment within the said period, the rate of interest was fixed @ 9 % from the date of expiry of the time prescribed by this Court till the date of payment.

Counsel submits that being aggrieved and dissatisfied with the order passed by the Hon'ble Single Judge in C.W.J.C. No. 6525 of 2004, the State Government has preferred L.P.A. The said L.P.A. was decided in favour of respondent vide L.P.A. No. 241 of 2006, which was decided finally on 18.11.2013 and the L.P.A. of State Government was

dismissed.

An order dated 07.02.2006 was set aside with observation that the respondent (M/s Singh Construction) may file a suit for money claim in the Civil Court.

Counsel for the petitioner submits that he was party to L.P.A. through M/s Singh Construction represented by Ashok Kumar Singh.

Counsel for the petitioner submits that with a view to stop the claim(s)/ relief(s) granted to the petitioner, his name was inserted in the Vigilance Case and, therefore, he seeks stay. As per his pleadings, the process under Section 82 and 83 of Cr.P.C. has already been issued against him on 03.12.2019.

Counsel for Vigilance submits that it is the proprietorship firm and, therefore, anything done by the firm shall treated to be done by the proprietor of the firm.

Counsel submits that the present petitioner was not initially accused but during investigation, his name has come in the array of accused and upon conclusion of investigation, charge sheet has been submitted against him on 29.04.2013.

It transpires that the petitioner is in litigating terms with State Government since, 2006 onwards and definitely he is well aware about the pendency of criminal case against him,

being the proprietor of the firm.

Liberty has been given by the L.P.A. Bench to the firm, whereas petitioner is accused in the personal capacity in the Vigilance Case.

Counsel for Vigilance submits that cognizance has been taken on 06.05.2013 and presently, year 2023 is going on. Meaning thereby, this petitioner has created a hurdle in the process of trial and this cannot be ignored by this Court.

The present criminal writ petition has been filed primarily with a view to stay the operation of Section 82 and 83 of Cr.P.C.

In this view of the matter, and in the interest of justice, this Court is of the view that this criminal writ application is not maintainable because entertainment of this application shall further delay the trial of the Court.

Therefore, the present criminal writ application stands **dismissed**.

(Dr. Anshuman, J.)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	