

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1517 of 2017

Arising Out of PS. Case No.-19 Year-2005 Thana- SC/ST District- Patna

Sunil Kumar Singh Son of Late Kapildeo Narayan Singh, R/o Village- P.S.-
Barh, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar, Through Principal Secretary, Department Of General Administration, New Secretariat, Patna.
2. Principal Secretary, Department of General Administration, Old Secretariat, Govt. of Bihar, Patna.
3. The Secretary Department of Law, Old Secretariat , Bihar, Patna.
4. Superintendent of Police, SC and ST Act Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan
For the Respondent/s : Mr. Manish Kumar Gp4

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 20-03-2023 The learned counsel for the petitioner has challenged the sanction order dated 09.08.2016 passed by the Law Secretary, Government of Bihar by which sanction for prosecution has been given. Learned counsel for the petitioner has submitted that earlier the Secretary, Home Department, Government of Bihar after due consideration with a detailed order on 14.01.2016 has refused sanction, he also submits that though an order of 2008 refusing sanction is not available to the petitioner but it was earlier also refused in 2008.

The learned counsel for the petitioner submits that the impugned order dated 22.06.2016 by which sanction has been



granted is a non-speaking order without considering the facts of the case and has not taken into account the order dated 14.01.2016 passed by the Home Secretary, Government of Bihar by which the sanction was refused. He submits that the impugned order is cryptic, non-reasoned order and cannot be sustained.

Learned counsel for the State has submitted that the sanction order has valid sanction order as the Law Secretary has gone through the records of the case and thereafter passed an order of sanction. Any order by any authority has to be a speaking order and if it is cryptic and non-speaking order it is no order in the eye of law. Moreover, it is important in the present case that earlier the sanction was refused by the Home Secretary, but the same has not been considered by the Law Secretary. It seems that the Law Secretary has mechanically passed the order granting sanction. In these circumstances, impugned order granting sanction for prosecution of the petitioner is illegal and is set aside.

The incident in question is of 1985. The F.I.R. was registered in 1998 and the sanction was granted in 2016. The learned counsel for the petitioner has relied upon judgments of the Supreme Court in the case of ***SANTOSH DE Vs. ARCHNA***



GUHA AND OTHERS, 1994 Supp (3) Supreme Court Cases 735 and PANKAJ KUMAR Vs. STATE OF MAHARASHTRA AND OTHERS (2008) 16 SUPREME COURT CASES 117,
considering the aforesaid, this Court is not inclined to remit the matter back to the Law Secretary for grant of sanction as it will serve no useful purpose. The petitioner cannot be prosecuted at this stage, now for an incident which has happened in the year 1985 and for which the FIR was registered in the year 2005.

With the aforesaid observation, this application is allowed.

(Sandeep Kumar, J)

Ranjeet/-

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