IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14016 of 2013

Arising Out of PS. Case No.-12 Year-2007 Thana- C.B.I CASE District- Patna

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Ugrasen, S/O Shri KNP Shrivastava, Resident of Basant Vihar, Haribatika Chowk, Bettiah, P.S.- Bettiah, Distt.- West Champaran. At Present R/O 1575A, Transit House, European Colony, Mughalsarai, P.S.- Mughalsarai, Distt.- Cahndauli (U.P.).

... ... Petitioner

Versus

The Union Of India Through Director, Central Bureau Of Investigation, New Delhi.

... ... Opposite Party

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Appearance :

For the Petitioner/s	:	Mr. Gopal Singh, Advocate
		Mr. R.K. Singh, Advocate
		Mr. Prabhakar Singh, Advocate
For the C.B.I.	:	Mr. Avanish Kumar Singh, C.B.I.

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL JUDGMENT

Date : 17-07-2023

By way of this application, the petitioner is challenging the order dated 20.02.2013 passed in Special Case No.08 of 2007, arising out of RC-12(A)/2007 by learned Special Judge, C.B.I.-III, Patna, by which the discharge petition filed by the petitioner has been rejected.

2. The prosecution case, in short, is that on 15.05.2007, one Anand Raj, Proprietor, Kings Tours & Travels, Patna reported to the Superintendent of Police, CBI, ACB, Patna, that he was the proprietor of M/S King Tour & Travels and had applied for plying vehicles for the use of Officers of

East Central Railway and his firm was L-1. He alleged that the petitioner, who was the Deputy Chief Mechanical Engineer, East Central Railway, Hajipur, had demanded Rs.1.25 Lakh for awarding the contract in his favour. On the same day, the present First Information Report was instituted narrative of which is that after the case was registered by the CBI, a team constituted under the orders of the Superintendent of Police, CBI, Patna and caught one Anil Kumar, Sr. DEC, EC Railway, Danapur Division, red handed near the DRM residence, Danapur, accepting the bribe of Rs.1.25 lakh. The bribe money was recovered from the possession of the accused-Anil Kumar, who said that he had accepted the bribe from the complainant for the petitioner on his instruction. On way to Sonepur near Gandhi Setu, Shri Anil Kumar received a call on his mobile from the petitioner as to whether Sri Anand had come to him. The phone line then got disconnected and then Sri Anil Kumar made call to the petitioner and told him that Anand had brought his money and he was coming to Sonepur to handover it to him. Thereafter, the petitioner replied that he was at his home and therefore, he could come. When the team reached the house of the petitioner, Sri Anil Kumar made phone call and asked him to come out of his residence. Then, in presence of shadow witnesses Sri S. K.

Srivastava, who was sitting in the car and Sri S. C. Gupta and team members, who were positioned near the car to hear the conversation, saw the petitioner come out of his house and Sri Anil Kumar handing over the money saying that as per his instructions the money was being handed over to him. At this, the petitioner accepted the bribe amount and thereafter the petitioner was also apprehended. The petitioner has filed a discharge petition, which has been rejected by the Special Judge, C.B.I.-III vide impugned order dated 20.02.2013.

3. During the pendency of this case, Interlocutory Application No.1068 of 2015 has been filed by the petitioner challenging the order 22.11.2015 by which the charges have been framed.

4. For the reasons, recorded in Interlocutory Application No.1068 of 2015, it is allowed. The petitioner is permitted to challenge the order dated 22.11.2014.

5. Learned counsel for the petitioner submits that even if the alleged demand by the petitioner is presumed to be true then also it has to correspond to a payment by the complainant. He further submits that demand and acceptance by the accused is a *sine qua non* for a trap, which is completely absent in this case and there is no material to establish that the petitioner has demanded bribe from the complainant.

6. Learned counsel for the petitioner further submits that as per the own saying of the C.B.I. the money was not received by the petitioner from the complainant and in such a situation, the charges against the petitioner is not proved. He relies upon a decision of the Apex Court in the case of ***Suraj Mal vs. State (Delhi Admn.)*** reported in *[(1979) 4 SCC 725],* wherein it has been held that mere recovery of tainted money divorced from the circumstances under which it is paid is not sufficient to convict the accused when the substantive evidence in the case is not reliable. The mere recovery by itself cannot prove the charge of the prosecution against the accused, in the absence of any evidence to prove payment of bribe or to show the accused voluntarily accepted the money knowing it to be bribe.

7. He also relies upon a decision of the Hon'ble Supreme Court in the case of ***P. Satyanarayana Murthy Vs. District Inspector of Police, Andhra Pradesh and Another (2015) 10 SCC 152,*** wherein the Hon'ble Apex Court took note of its earlier decision in ***B. Jayraj Vs. State of A.P. (2014) 13 SCC 55*** and held in para 23 that:-

> *"23. The proof of demand of illegal gratification, thus, is the gravamen of the*

> *offence under Sections 7 and 13(1)(d)(i)&(ii) of the Act and in absence thereof, unmistakably the charge therefore, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Sections 7 or 13 of the Act would not entail his conviction thereunder."*

8. He also places reliance upon a judgment and order of this Court passed in the case of ***Dr. Jitendra Gupta vs. State of Bihar through Vigilance*** reported in ***(2016) 4 PLJR 894,*** more particularly paragraph nos. 5, 6, 8, 10, 15, 26 and 30, which read as under:-

> *"5. The learned counsel for the petitioner has submitted that it is a case of no material against the petitioner and my attention has been drawn to the fact that it is not in dispute that the petitioner had not directly demanded any money from the informant or from the driver of the other three trucks. It has been argued that primary pre-requisite of an offence, under Section 13(1)(d) of the Prevention of Corruption Act, is proof of demand or request for valuable thing or pecuniary advantage from a public servant and, hence, absence of allegation for demand goes to show*

that prosecution's case is bound to fail.

6. *Mr. S. Datta, learned Senior Counsel, appearing for the petitioner, has argued that there is not even an allegation that any money was paid to the petitioner inasmuch as the prosecution's case is that the money was demanded and received by the co-accused, Sanjay Tiwari. A search operation was conducted in the house of the petitioner; but no money has been recovered from the house. The prosecution, in fact, admit, as is evident from the counter affidavit, that there was no recovery of the demanded money or any portion thereof from the possession of the petitioner. In other words, it is a case of no demand and no recovery from the petitioner.*

8. *The respondent No.5, who is the investigating officer, has filed the counter affidavit controverting the statements made in the writ petition. The counter affidavits, when read carefully, discloses that the case of the respondent/ prosecution is that co-accused, Sanjay Tiwari, demanded and received the money at behest of the petitioner and, in that context, the respondent has relied upon the statement of the co-accused recorded, under Section 161 of the Code of Criminal Procedure, to try and rope in the petitioner.*

10. *In other words, the edifice of the prosecution case is based on the confession of the co-accused allegedly made to the police, whilst under investigation. Though till now, there is no confession before the Special Judge, let us assume that the co-accused makes the confession before a Special Judge stating that he had made the demand and*

received the money acting on the behest of the petitioner. Law is settled that the confession of co-accused cannot be treated as substantive evidence, in the strict sense, against the petitioner and cannot be made foundation for conviction of the person/petitioner, who did not make the confession.

15. Is it uncommon or even unnatural, in our society, for a senior Government functionary to direct a person, who has, suddenly, come to his residence and sought some favour, to go and meet the subordinates? The answer has to be an emphatic "No". The subordinate staff, ordinarily, available at the residential quarter is the driver. The conduct of the Sub-divisional Magistrate, in such circumstance, in asking the informant (truck driver) to talk to the co-accused (driver of the official vehicle), who was, at that time, at the residence of the petitioner, was the natural thing that many other officers similarly situated would do. The co-accused, then, demands money for releasing the truck from the informant (truck driver). The demand is, admittedly, not made in the presence of the petitioner. The informant does not cross check with the petitioner about the demand of money; instead, he goes and pays the money to the co-accused and, then, tries to rope in the petitioner in the offence. Nobody, in fact, made any attempt, even a feeble attempt, to ascertain from the petitioner if he had really demanded money, which Sanjay had claimed from the driver of the truck in question.

*26. At this juncture, the ratio, laid down in the case of **State of Haryana v. Bhajan***

Lal, 1992 Supp (1) SCC 335, *may be profitably invoked, wherein the Supreme Court while summarizing the discussion in paragraph 102, held against clause No. 5 that where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused, a case for quashing is made out. When the improbability of events, taking place on 03.07.2016, was brought to the notice of Court an attempt was made to change the very date of occurrence of offence.*

30. When the facts, as alleged, remain uncontroverted cannot lead to conviction, the trial, so far as present petitioner is concerned, would be a futile exercise and, hence, his prayer for quashing the FIR against him and closing the case so far as the present petitioner is concerned. In India, the courts would not, ordinarily, quash a criminal proceeding merely because of the reason that at the end of the trial, conviction of the person, facing the trial, appears impossible on account of insufficiency of material. This restriction is, however, not a restriction of universal application. Hence, in a given case, it is possible to quash a criminal proceeding if, it is, on the basis of the materials available, reasonable to reach a conclusion that at the end of the trial, the accused would have to be acquitted."

9. The aforesaid decision has been upheld by the Hon'ble Supreme Court vide order dated 06.12.2017 passed in Special Leave to Appeal (Crl.) No.805 of 2017.

10. Learned counsel for the petitioner further submits that the F.I.R. mentions the place of occurrence at Hajipur but the trap was conducted and concluded at Danapur, which falsifies the prosecution version and with acceptance of tainted money from the complainant by Anil Kumat at Danapur, the trap came to an end and there could not be another trap for the same occurrence arising out of the same F.I.R. He further submits that in the first trap, the money was received by co-accused Anil Kumar, who neither knew the complainant nor had demanded any money from him. This falsifies the F.I.R. and the casts a doubt on the prosecution case.

11. It has also been submitted by learned counsel for the petitioner that even in the 2nd trap, the co-accused Anil Kumar would be the complainant and not Anand Raj, as claimed by the C.B.I. in the F.I.R. and since co-accused Anil Kumar was already under custody, his statement would be the statement of co-accused and is inadmissible. In support of this submission, learned counsel for the petitioner has relied upon a decision of the Hon'ble Supreme Court in the case of ***Dipakbhai Jagdishchandra Patel vs. State of Gujarat & Another*** reported in ***(2019) 16 SCC 547.***

12. It has also been argued by learned counsel for the petitioner that if the averments made in the complaint petition are accepted then also the contents of the complaint petition were required to be verified by the C.B.I. before registration of the F.I.R. As per the own saying of the C.B.I., the complaint was received on 15.05.2007 and F.I.R. was registered by the C.B.I. at 10:00 A.M. on the same date, therefore, there was hardly anytime to verify either the contents of the complaint or the antecedents of the complainant. Therefore, it is direct breach of Chapter-8 of the C.B.I. Manual of 2005. Chapter 8.6 deals with complaints in which verification should be done. Chapter 8.8 and 8.9 deals with process of verification.

13. Chapter 8.6 and 8.8 of C.B.I. Manual, 2005 read as under:-

> *"8.6. The following categories of complaints may be considered fit for verification:-*
>
> *(i) Complaints pertaining to the subject-matters which fall within the purview of CBI either received from official channels or from well-established and recognized public organizations or from individuals who are known and who can be traced and examined.*
>
> *(ii) Complaints containing specific and*

definite allegations involving corruption or serious misconduct against public servants etc., falling within the ambit of CBI, which can be verified."

Process of Verification

8.8. The complaints registered for verification, with the approval of the Competent Authority, would only be subject to secret verification. The SsP and the verification officers should ensure that the departmental records are examined discreetly, so that secrecy of the verification is maintained. It is advisable to consult the records informally, by contacting the concerned CVO/Head of the Department. During verification of a complaint, written requisitions should be avoided. In case, it is absolutely necessary to do so, the requisition must go to the concerned Vigilance Officer under the signature of the SP.

8.9. Secret verification should be completed within three months of the receipt of the complaint. In complicated matters, a time of four months may be taken with prior permission of the DIG concerned. To ensure proper monitoring, the DIsG should review all pending Complaints every month and send a report to the Head Office with their comments on the complaints pending verification for more than three months."

14. In support of his contentions, learned counsel for the petitioner has relied upon the decision of the Hon'ble Supreme Court in the case of ***Lalita Kumari vs. Government of Uttar Pradesh & Others*** reported in ***(2014) 2 SCC-1,*** more particularly paragraph nos.117 and 120.6 of the aforesaid decision, which read as under:-

> *"117. In the context of offences relating to corruption, this Court in P. Sirajuddin (supra) expressed the need for a preliminary inquiry before proceeding against public servants.*
>
> *120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:*
>
> *a) Matrimonial disputes/family disputes*
>
> *b) Commercial offences*
>
> *c) Medical negligence cases*
>
> *d) Corruption cases*
>
> *e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.*
>
> *The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry."*

15. It has also been argued that the version of the complaint petition is totally false as complainant was never placed as L-1 but the real fact is that in pursuance of advertisement the complainant submitted his bid but instead of submitting a certificate as per Clause-2 of the advertisement, the complainant submitted a self declaration along with the tender papers declaring therein that he has successfully completed his earlier tender of similar nature and on that ground the conduct of the complainant declared as “unsatisfactory” and he was disqualified on 12.04.2007. Further submission is that earlier also the complainant presented some fake, fabricated bills before the department and had managed to succeed in getting these inflated bills paid, which was subsequently detected by this petitioner and thereafter an order of recovery of the said excess amount to the tune of Rs.16 Lakh was issued at the instance of the petitioner.

16. It has also been submitted by learned counsel for the petitioner that against the decision to discharge the tender of the complainant, the complaint filed C.W.J.C. No.294 of 2007, which was dismissed by this Court. The said order was confirmed till the Hon’ble Supreme Court in SLP and in all these matters, the petitioner was pursuing the matters on behalf of the Railways against the complainant. The complainant faced recovery proceeding for his non-performance of contract and also was never allotted any subsequent contract at the instance of the petitioner and all this happened after the petitioner was posted to ECR and for which the complainant had a grudge against the petitioner.

17. It has also been submitted by learned counsel for the petitioner that in tender no.01 of 2007 the complainant had already been found unfit on 12.04.2007 by the Railways and therefore, the version of the complainant that he was L-1 is totally false. It has also been submitted that bribe is alleged to have been received by co-accused Anil Kumar, who is four years senior to the petitioner. Therefore, it is unbelievable and strange that a senior person receives money for a person who is four years junior to him.

18. It has also been submitted that as per the prosecution story the petitioner called the complainant for the alleged bribe and instructed him to handover it to a senior officer i.e. co-accused Anil Kumar. However, as per Call Details Records produced by the C.B.I. there exists no such call. The story of prosecution moves further and it is stated that the petitioner called the complainant and confirmed from him that whether talk with senior officer was done. However, this call also does not exist in the Call Details Records.

19. It has also been submitted that neither the pre tap memorandum nor the post trap memorandum was prepared by the C.B.I. which is in gross violation of not only of its own Manual but also against the law laid down by the Hon'ble Supreme Court as well as this Court. In support of his submission, he has relied upon the following decisions:-

(i) ***Dhruva Prasad Ojha vs. State of Bihar and Ors.*** reported in ***2000(1) PLJR 823,*** which has been upheld by the Hon'ble Supreme Court in Criminal Appeal No.26 of 2002

(ii) ***Vineet Narain vs. Union of India*** reported as ***AIR 1998 Supreme Court 889***.

20. Learned counsel for the petitioner has relied upon the decision rendered in the case of ***Union of India vs. Prafulla Kumar Samal, (1979) 3 SCC 4; Sajjan Kumar v Central Bureau of Investigation, (2010) 9 SCC 368; Kanchan Kumar vs. State of Bihar (2022) 9 SCC 577.***

21. Learned counsel for the C.B.I. has submitted that RC No.12(A)/2007-Pat, dated 15.05.2007, was registered against the petitioner on the complaint of Anand Raj, Proprietor, Kings Tours & Travels, Patna, who alleged in his written complaint that the petitioner had demanded a bribe of Rs.1.25 lakh, for finalization of the contract for hiring the vehicles in E.C Railway. The veracity of the allegation was got verified, whereupon a trap team was constituted and since the petitioner had directed the complainant to deliver the bribe money to co-accused Anil Kumar, the trap team caught Anil Kumar red handed while accepting the bribe money of Rs. 1.25 lakh from the complainant. Since co-accused Anil Kumar admitted that he had accepted the bribe amount on behalf of the petitioner, further trap was laid on the petitioner, who was also caught red handed while accepting the tainted amount. Hence, in this case, two transactions are part of one single trap. The demand of bribe was made at Hajipur, so place of occurrence is mentioned as Hajipur in the F.I.R. but as per the directions of the petitioner, the bribe amount was handed over by the complainant to co-accused Anil Kumar at Danapur.

22. It has also been submitted by learned counsel for the C.B.I. that as regards the factum of demand and acceptance by the accused being *sine qua non* for a trap case, it is submitted that it has come in the course of investigation and as mentioned in the charge-sheet, the complainant telephonically contacted the petitioner whereupon he was asked by the petitioner to hand over the money to co-accused Anil Kumar, who in turn asked the complainant to meet him in the office or at his residence. After completion of the pre-trap formalities, the team left for Danapur. The complainant again contacted co-accused Anil Kumar, who asked him to come near the D.R.M. residence and thereafter co-accused Shri Anil Kumar was apprehended by the C.B.1. team when accepting the bribe of Rs. 1,25,000/- from the complainant. The numbers and denomination of the tainted bribe amount recovered from the conscious possession of co-accused Anil Kumar tallied with the pre-recorded numbers in the preliminary memorandum. The conversation was heard and transaction was seen by the witnesses/CBI team members. On being asked by the CBI team, co-accused Anil Kumar revealed that he had accepted the bribe amount on behalf of the petitioner and was willing to hand over the same to him. As per his request, the C.B.I team along with co-accused Anil Kumar proceeded to Sonepur where the petitioner was apprehended while accepting the bribe amount of Rs.1,25,000/- in the presence of independent witnesses.

23. Learned counsel for the petitioner further submits that records of the conversation on mobile phones between the petitioner and the complainant will be produced during the trial, which are crucial to prove the demand of illegal gratification. He further submits that the submission of the petitioner that there was no demand made by the petitioner is false as the evidence clearly establishes that the petitioner had asked the money to be passed on to co-accused Anil Kumar, who in turn handed over to the petitioner. He has relied upon a decision of the Hon'ble Supreme Court rendered in the case of ***B. Noha v State of Kerala and Anr. 2006 (12) SCC 277)***, wherein it has been held that when it is proved that there was voluntary and conscious acceptance of the money, there is no further burden cast on the prosecution to prove by direct evidence, the demand or motive.

24. Learned counsel for the C.B.I. further submits that the contention of the petitioner that the demand of bribe had not been verified by the prosecution is most fallacious and untenable in view of the fact that in the charge-sheet, in the list of relied upon documents at Item No. 2 and 3 are the pre and post trap memos and Item No. 6 is the verification report of the then Inspector Sri Praveen Kumar and thus, it clearly shows that the prosecution had verified before conducting the trap. After the trap, the petitioner was produced before the learned court below and remanded in judicial custody and the petitioner never said before the learned court below at the time of remand that the C.B.I. has forcefully taken his signatures on plain papers. The stand of the petitioner that C.B.I. had forced him to put his signature on blank papers is an afterthought to create a defence. In this regard, reliance has been placed by the C.B.I. on a decision of the Hon'ble Apex Court in the case of ***Sultan Ahmed Vs. State of Bihar*** reported in ***1974 Criminal Law Journal Page 895***.

25. Learned counsel for the C.B.I. further submits that at the stage of framing of charge, the Court has only to peruse and rely upon documents of the prosecution and at that stage the Court should not consider any material filed by the accused, which will be seen at the stage of trial and accordingly, non-production of relevant documents of the FIR and forged signatures on the documents shall be considered at the stage of trial.

26. In support of his submission, he placed reliance on a decision of the Hon’ble Supreme Court in the case of ***Devendra Nath Padhi vs. State of Odisha*** reported as ***2005(1) SCC 568*** wherein it has been held that defence can not be looked at the time of cognizance or framing of charge.

27. It has also been submitted by learned counsel for the C.B.I. that it is also not denied that the complainant was not the L-I in the tender and as per search list, the said tender file was seized from the residence of the petitioner and there is no denial of signature of accused persons on recovery memorandum which have been supported by the witnesses in the statement under Section 161 Cr.P.C. Further, the petitioner was very much part of the tender process which would be apparent from the fact that in the search list which has been enclosed with the quashing application, the file relating to hiring of vehicles had been recovered from the drawing room Sofa-set of the petitioner. After the trap, and the same has been signed by the independent witnesses accompanying the trap team. It has also been submitted that the tender documents were submitted on 09.04.2007 and the petitioner was nominated as Executive Member since there was no other Senior Scale Officer in the Headquarter office (Mechanical) and accordingly the petitioner being the Dy. CMB (HQ) was nominated as Executive Member. The recovery memo has been annexed as Annexure-18 to the quashing application and in each and every page of the recovery memorandum, the petitioner has put his signature along with the other co-accused Anil Kumar as well as other members of the trap team including independent witnesses have also signed thereupon.

28. It has also been submitted that the Investigating Officer namely, Prabeen Kumar, the then Inspector, CBI, ACB, Patna has carried out verification of the complaint and also laid the trap proceedings. Thereafter, investigation of the case was carried out by Shri B. B. Bhatt, the then Inspector, CBI, ACB, Patna. The charge-sheet in the case was filed by Shri B.B. Bhatt, the then Inspector, CBI, ACB, Patna. The pre-trap and post-trap Memorandum was prepared on the date of trap and the petitioner has also signed on post trap Memorandum on the date of trap only. It has also been submitted that the copy of post trap memorandum bears the signatures of co-accused Anil Kumar and the petitioner. Sri Prabeen Kumar, the then Inspector, CBI, ACB, Patna has also put his signature on all the relevant documents of the case, who will prove his signature during the course of trial. Further submission is that the tender file related to the complainant was found from the house of the petitioner, in case of disqualification of the tender of the complainant, as claimed by the petitioner, there was no need of keeping such file at his house by the petitioner.

29. It has also been submitted by learned counsel for the C.B.I. that whether the criminal proceeding was malicious or not is required to be considered at the conclusion of the trial. In support of the submission, he has placed reliance on a decision of the ***Central Bureau of Investigation vs. Aryan Singh etc.*** reported in ***2023 SCC OnLine (SC) 379***.

30. It has also been submitted by the C.B.I. that the petitioner was prosecuted only after grant of sanction order from the competent authority and the trial is already at an advance stage. The charges were framed on 22.11.2014. Thereafter three prosecution witnesses namely PW-1- Sanctioning Authority namely, Sri Sunil Kumar, the then Deputy Secretary (D & A), Ministry of Railways, Rail Bhawan, New Delhi, P.W. 2-Sri Anil Kumar, Section Engineer (Vehicle), Mechanical Department, East Central Railway, Hajipur and Shri Santosh Kumar Srivastava, Son of Late Pradhan Bhagwat Prasad, Manager, Central Bank of India, Zonal Office, Patna, have already been examined, cross-examined and discharged. Therefore, at this late stage of trial the quashing application cannot be entertained and therefore needs to be rejected.

31. In support of his submissions, learned counsel for the C.B.I. has relied upon a decision of the this Court dated ***31.07.2012 passed in Criminal Miscellaneous***

No.8253 of 2012 (Ritesh Kumar vs. The State through the C.B.I.) wherein this Court has refused to entertain the quashing application filed against rejection of discharge petition on the ground that the trial is in advance stage.

32. I have considered the submissions of learned counsel appearing for the petitioner and learned counsel for the C.B.I.

33. The arguments which have been advanced by learned counsel for the petitioner can be dealt with by scrutinizing the prosecution case as well as after considering the defence of the petitioner, which in my opinion, is not permissible at the stage of framing of charge. At the stage of framing of charge, the Court has to examine as to existence of a prima facie case being made out by the prosecution to warrant the trial of the accused. Moreover, the trial has already begun and three witnesses have been examined. This Court will not and should not interfere in such a serious case in which the petitioner is said to have accepted the bribe and was caught while accepting the bribe money.

34. Moreover, it is a settled position of law that while exercising powers under Section 482, CrPC, the Court is not required to conduct a mini trial. What is required to be considered at that stage is the nature of accusations and allegations in the FIR or complaint and whether the allegations in the FIR/ complaint prima facie discloses the commission of the cognizable offence or not. At the stage of considering an application for discharge, the Court must proceed on an assumption that the materials which have been brought on record by the prosecution are true and evaluate the said materials in order to determine whether the facts emerging from the materails taken on its face value, disclose the existence of the ingredients necessary of the offence allged.

35. The Hon'ble Supreme Court in the case of ***Central Bureau of Investigation vs. Aryan Singh (supra)*** has held that as per cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 of the Cr.P.C., the Court is not required to conduct a mini trial. The charges are required to be proved during the trial on the basis of evidence led by the prosecution/investigating agency. At the stage of discharge and/or while exercising the powers under Section 482 of the Cr.P.C., the Court has a very limited jurisdiction and is required to consider whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not.

36. For the foregoing reasons, I am not inclined to interfere with the impugned orders. Accordingly, this application is dismissed.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R
CAV DATE	N/A.
Uploading Date	09.12.2023
Transmission Date	09.12.2023