

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58354 of 2018

Arising Out of PS. Case No.-61 Year-2013 Thana- C.B.I CASE District- Patna

Dr. Ranjan Kumar Singh @ R. K. Singh, Son Of Late Hardeo Singh, resident of Hardeo Niwas, New Bahadurpur, P.S. Bahadurpur, District - Patna - 800016.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Additional Director General, Vigilance Investigation Buraru, Bihar, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Praveen Kumar
For the Opposite Party/s :	Mr. Ram Bilash Roy Raman
	Mr. Arvind Kumar
	Mr. Anjani Kumar
	Mr. Purushottam Kumar Jha
	Mr. Avanindra Kumar Jha
	Mr. Jitendra Acharya

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

15-09-2023

Heard learned counsel for the petitioner, learned

APP for the State, learned counsel for the informant and learned counsel for the Vigilance.

2. The present quashing application has been filed seeking quashing of the order dated 21.08.2015 passed by the learned Special Judge, Vigilance-1st, Patna in Special Case No.66A of 2013, arising out of Vigilance Case No.61 of 13, whereby the learned Court has taken cognizance of the offence under Sections 13(2) read with 13(1)(d) of the



Prevention of Corruption Act, 1988 read with Sections 406, 409, 420 and 120B of the I.P.C. after obtaining sanction from the competent authority.

3. The learned counsel for the petitioner submits that despite there being no material collected during the investigation, the Vigilance in a mechanical manner submitted supplementary charge-sheet and the learned Court also without due application of judicial mind took cognizance. It is further submitted that an F.I.R. being Vigilance Case No.61 of 2013 came to be instituted alleging that in view of the inquiry conducted by the vigilance with regard to illegality committed in purchase of medicines, chemicals, reagents, machines etc. by the officials of P.M.C.H. in the Financial Year 2008-09 and 2009-10. The following corrupt practices surfaced:-

I) For Financial Year 2008-09, the Government was put to loss of Rs.3,34,27,974/- on account of purchase of medicines, chemicals, machines etc. at the rate higher than MRP in connivance of the officials,

II) For Financial Year 2009-10, the



Government was put to loss of Rs.3,35,20,892/- on account of purchase of medicines, chemicals, machines etc. at the rate higher than the MRP in connivance of the officials.

III) For Financial Year 2008-09 and 2009-10, the Government was put to loss of Rs.4,38,24,498/- on account of purchase of parts of machine at rates higher than MRP in connivance of the officials.

IV) For Financial Year 2008-09 and 2009-10, the Government was put to loss of Rs.1,55,89,606/- on account of purchasing medicines, chemicals, parts in much excess of requirement at a rate higher than the MRP in connivance of the officials and the purchased articles expired without being used.

V) In view of the above, on account of corrupt practices and connivance of the officials an amount of Rs.12,63,62,970/- of the Government was misappropriated in the Financial Year 2008-09 and 2009-10. Accordingly, the F.I.R. was instituted against 15 accused persons.

4. The learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the



F.I.R, it would manifest that the same relates to misappropriation of government fund in purchasing medicines, chemicals, machines reagents, parts etc. at a rate higher than the MRP and thereafter, the aforesaid articles also expired without use. It is also submitted that petitioner is not named in the FIR.

5. The learned counsel further submits that it is relevant to submit certain facts which preceded the institution of the FIR which prima facie would demonstrate that the petitioner came to be implicated in a mechanical manner based on suspicion.

6. It is submitted that petitioner vide Memo Dated 30.12.2006 (Annexure-1 to the quashing application) was posted as Deputy Superintendent, P.M.C.H. with an objective to tighten the administrative set up of P.M.C.H. Further, petitioner was given additional charge of surgical store of P.M.C.H. in 2007, but on account of nature of duty being rendered by the petitioner as Deputy Superintendent, P.M.C.H., the entire responsibility of the surgical store was given to Pharmacist surgical store Vide Memo Dated



18.12.2007 (Annexure-2 to the quashing application). Further, the Superintendent, P.M.C.H. by his letter dated 28.01.2008 (Annexure-3 to the quashing application) made it clear that the file relating to surgical store should be sent for further action only after certification by the Pharmacist, the said direction was communicated to the Pharmacists, medical store and Pharmacist surgical store, P.M.C.H. Further, the petitioner by Letter dated 09.01.2009 (Annexure-4 to the quashing application) was directed to ensure smooth functioning of the emergency.

7. It is thus submitted that though petitioner was given additional charge of surgical store, but the charge so given, was with least responsibility as would be evident from Annexures 2 and 3 to the quashing application. Since the petitioner was assigned the job of tightening the administrative set up of P.M.C.H., thus he had written to the Superintendent, P.M.C.H. vide his Letter dated 07.11.2009 (Annexure-5 to the quashing application) for avoiding slightest possibility of expiry of medicines etc.

8. It is next submitted that a complaint was



made of Committing irregularity in purchase of chemicals, medicines, reagents, machines for the Financial Year 2009-2010. Accordingly, an inquiry was conducted by a two men committee constituted by the Health Department. The Committee confirmed the allegations by their report dated 06.01.2011 (Annexure-6 to the quashing application), but the petitioner was given clean chit by the Health Department by Letter dated 06.09.2013 (Annexure-7 to the quashing application).

9. It is submitted that thereafter, inquiry was taken up by Vigilance with regard to the illegality committed in purchase of chemicals, medicines, reagents, machines etc. in P.M.C.H. for Financial Year 2008-2009 and 2009-2010 and the petitioner vide Letter dated 01.03.2012 (Annexure-8 to the quashing application) was asked by the Department of Health, Government of Bihar to assist the Nodal Officer appointed in the Vigilance inquiry. It is submitted that all of a sudden, petitioner was transferred from P.M.C.H., but he filed C.W.J.C. No. 18049 of 2012 before this Court which was disposed of by an order dated 01.10.2012 with certain



directions to examine the grievance of the petitioner. It is submitted that while a decision was pending in terms of the order dated 01.10.2012 in C.W.J.C. No. 18049 of 2012, the petitioner sought information under the R.T.I. Act regarding the procedure with regard to purchase of chemicals, medicines, reagents, machines etc. and also the name of the members of the Purchase Committee. Accordingly, he was furnished information under the RTI Act (Annexure-9 to the quashing application) that Deputy Superintendent, P.M.C.H. was in no way involved in the purchase nor is a member of the Purchase Committee. It is submitted that the petitioner on 15.08.2013 was awarded with *Garima* Award for meritorious service by P.M.C.H., which amply demonstrates that petitioner was a hard working and an honest officer.

10. The learned counsel for the petitioner next submits that the Principal Secretary, Vigilance, Government of Bihar vide his Memo Dated 25.11.2013 (Annexure-10 to the quashing application) in compliance of the order dated 01.10.2012 in C.W.J.C. No. 18049 of 2012 gave a clean chit to the petitioner with clear recommendation not to



transfer him at any place and also observed that the reason given by the Health Department transferring the petitioner is unreasonable.

11. It is next submitted that a P.I.L. being C.W.J.C No. 10303 of 2013 came to be filed before this Court. It is submitted that Vigilance filed counter affidavit and supplementary counter affidavit in C.W.J.C. No. 10303 of 2013 and from perusal of third, fourth and fifth supplementary counter affidavit (Annexure-11 to the quashing application), it would manifest that the involvement of the petitioner was ruled out. It is further submitted that an FIR being Vigilance P.S. Case No. 61 of 2013 was instituted in light of the order in C.W.J.C. No. 10303 of 2013 while the C.W.J.C. No. 10303 of 2013 was kept pending.

12. It is next submitted that after institution of the FIR in pursuance of the order of this Court, the Vigilance investigated the case threadbare and thereafter submitted Charge Sheet No. 54 of 2014 dated 16.06.2014, where even the name of the petitioner did not surface nor the



charge sheet even remotely connected the petitioner with the offence. The learned counsel submits that after the charge sheet was submitted by the Vigilance, the C.W.J.C. No. 10303 of 2013 was taken up for consideration by this Court wherein this Court by order dated 05.08.2014 issued a direction to inquire regarding involvement of petitioner and Dr. Sudhir Kumar.

13. It is submitted that thereafter the Vigilance in haste or under pressure that a P.I.L. is pending before this Court filed a supplementary charge sheet being Supplementary Charge Sheet No. 19 of 2015 dated 27.02.2015 (Annexure-15 to the quashing application) against the petitioner.

14. The learned counsel for the petitioner submits that in Supplementary Charge Sheet No. 19 of 2015, the allegations were that:-

I) The petitioner without going through the documents and without certifying the same ordered for supplying the medicines, chemicals, reagents, machines etc. from the surgical store to the Surgery Department on a single day which



got expired without being uses

II) The supply materials i.e. Chemicals, medicines, reagents, machines etc. were stored in the surgical store and the store accepted the same with 12-14 months expiry instead of not less than 18 months which points towards petitioner's involvement with the supply.

III) Thus, the petitioner appears to be equally liable and his involvement cannot be ruled out.

15. The learned counsel submits that it absolutely does not stand to reason that when Vigilance investigated the case while C.W.J.C. No. 10303 of 2013 was pending and submitted charge sheet, but then, the petitioner was not found involved, then what materials transpired after the order dated 15.08.2014 in C.W.J.C. No. 10303 of 2013 connecting the petitioner with the offence or was it that Vigilance in haste submitted supplementary charge sheet.

16. The learned counsel next draws the attention of the Court to Annexure Nos. 2, 3, 5, 6, 7, 8 and 10 of the quashing application to rebut the allegations and submits that the charge of surgical store was given to the petitioner with least responsibility, all the files had to be processed



through the Pharmacist, two men committee report did not indict him rather Health Department gave him clean chit, the Court disposed of writ petition regarding transfer in pursuance whereof Principal Secretary, Vigilance stayed his transfer and even observed against the order of transfer issued by the Department of Health, the petitioner was made to assist the Nodal Officer of the Vigilance in the inquiry, thereafter, the petitioner draws the attention of the Court again to Annexure-11 Series and submits that Vigilance exonerated him. It is next submitted that it was upon the request of the petitioner that the suppliers of the medicines, chemicals, reagents and machines etc. had replaced the items beyond the duration of expiry as would be evident from Annexure-14 Series to the quashing application).

17. The learned counsel, thus, submits that the authority, who investigated the case initially based on which the FIR came to be instituted, did not find any culpability of the petitioner in the offence and thus, he was not named in the FIR. The authority, who investigated the case threadbare filed charge sheet did not find culpability of the petitioner in



the offence and thus, he was not named in the charge sheet, but since this Court in C.W.J.C. No. 10303 of 2013 merely directed to inquire about the role of the petitioner, it appears that the Vigilance completely abdicated its power and in a mechanical manner proceeded to file a supplementary charge sheet with the aforesaid allegations, it absolutely defies all logic, wisdom and reasonable administrative behaviour that on what basis the Vigilance submitted supplementary charge-sheet connecting the petitioner with the offence on bald allegation. As far as the first allegation is alleged, it appears more administrative than criminal. As far as second allegation is concerned, the same is based on surmises and conjectures for the reason that if what has been alleged in the supplementary charge sheet is correct, then why the same escaped the attention of the Vigilance Authorities and if the Vigilance committed dereliction of duty, why the authority should not be proceeded against.

18. To the Court, it appears that in the nature of allegation as alleged in the supplementary charge sheet submitted by the Vigilance, prima facie no offence is made



out against the petitioner as everything is based on surmises and conjectures and it also appears that the Vigilance under pressure that a direction has been issued by this Court in C.W.J.C. No. 10303 of 2013 proceeded to implicate the petitioner to show that the investigation is complete.

19. Based on the submissions of the learned counsel for the petitioner, the Court prima facie, was inclined to interfere with the order of cognizance when the learned Special Public Prosecutor, Sri Arvind Kumar, for the Vigilance submits that much water has flown and the trial has commenced, but then, in view of the order passed by a learned Co-ordinate Bench dated 01.05.2023, the trial has been stayed. Had this fact been brought to the notice of the Court at the outset, perhaps the present order would not have been recorded, but then, the order has been recorded. Since the trial has commenced, as such, the Court at this stage, would not interfere with the trial and leaves it to the learned Trial Court to adjudicate the case by applying its independent judicial mind.

20. The Court expects that since trial has



commenced, the learned trial Court shall try to dispose of the case expeditiously and preferably within an year of the date of receipt/production of a copy of this order. The Court also expects that the Vigilance shall not delay the trial in any manner and will produce all the witnesses as and when required by the learned trial Court.

21. The quashing application is disposed of accordingly.

(Satyavrat Verma, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15.09.2023
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