

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6063 of 2022

Arising Out of PS. Case No.-85 Year-2010 Thana- VIGILANCE District- Patna

SABNAM SHILA GURIA @ SHABNAM GUDIYA W/o Santosh Kumar
Bhagat Resident of Village - Simri , P.O.- simri, P.S.- Simri, Distt.- Buxar,
Bihar, Bihat at posted as C.D.P.O. Pirpatt, P.S.- Pirpatti, Distt.- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar through Vigilance. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner : Mr. Rakesh Kumar Sinha, Advocate
For the Vigilance : Mr. Rana Vikram Singh, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 20-03-2024 1. Heard learned counsel for the petitioner and
learned Special P.P. for the Vigilance.

2. This application has been filed under Section 482
of the Code of Criminal Procedure, 1973, on behalf of the
petitioner for quashing the order dated 29.05.2014 passed by the
court of learned Special Judge Vigilance, 1st, Patna, in Special
Case No. 26 of 2010 arising out of Vigilance Case No. 85 of
2010 whereby the learned court below took cognizance of
offences punishable under Sections 201, 120B, 468, 420, 109,
471 and 477 of the Indian Penal Code and Sections 7, 8, 12 read
with Sections 13 (1)(B) and 15 of the Prevention of Corruption
Act, 1988, against five accused persons, including this
petitioner.



3. The prosecution story in brief is that the complainant filed a complaint in the Mukhayamantri Janta Darbar, registered as No.1201950104. In the aforesaid complaint petition she alleged that one Krishnawati Devi was appointed as Anganbari Sevika on Centre No. 04 of Korian, Dinara, Rohtas, by the selection committee consisting of Mukhiya & C.D.P.O. on the basis of educational qualification certificate of her sister Smt. Rinku Devi. Thereafter, on the basis of said allegation of abuse of official position, cheating and forgery committed by aforesaid public servant, a Vigilance enquiry no.- आर.-02/2009 कल्याण/ रोहतास was registered in the Vigilance Investigation Bureau, Patna, to be conducted by an Officer of the Bureau. On the completion of Vigilance enquiry, a report was submitted in the Vigilance Investigation Bureau, Patna, which revealed that a cognizable offence had been committed by the accused persons, including this petitioner. Therefore, vide letter no. 1014/ जा. शा., dated 06.08.2009, direction was issued by the Bureau to lodge an F.I.R. and on that basis, Vigilance P.S. Case No.- 85/2010 dated 13.12.2010 under Sections 201/120B/468/420/109/477/471 of I.P.C and under Sections 7/8/12/13(1) (b) and 15 of P.C. Act 1988 was registered against 1. Kumari Bandana Das, the then C.D.P.O; 2. Sri Rajgrih



Ramn, the then Mukhiya of Vishikalan, Dinara Panchayat, Rohtas; 3. Sri Rajendra Prasad Yadav, the then Clerk in the O/o the C.D.P.O., Dinara, Rohtas; 4. Smt. Rinku Devi @ Krishnawati and 5. Smt. Shabnam Sheela Gudia, the then C.D.P.O Dinara, Rohtas (petitioner).

4. It is submitted by learned counsel appearing on behalf of the petitioner that the impugned order of cognizance dated 29.05.2014 is bad in law and facts both. It is next submitted that even if the allegations made in the F.I.R. are accepted to be true in the entirety, *prima facie* no offence is made out against this petitioner. It is next submitted that at the relevant time, this petitioner was never posted as C.D.P.O., Dinara. As a matter of fact, this petitioner was transferred as C.D.P.O., Dinara from Imamganj (Gaya) vide Memo No. 756 dated 04.03.2008 and she joined the Office as C.D.P.O., Dinara, on 10.03.2008. It is further submitted that the selection process of Aanganwari Sevika was completed on 22.02.2006 by the then C.D.P.O, Dinara, and the then Mukhiya. This petitioner joined as C.D.P.O., Dinara, much later on 10.03.2008, when all the selection process was completed and hence, allegations against this petitioner is not sustainable and as such, continuation of the proceedings against this petitioner would amount to abuse of the



process of court.

5. On the other hand, learned Spl. P.P. appearing on behalf of the vigilance has vehemently opposed the statements made on behalf of the petitioner and supported the impugned order submitting that there is sufficient material on record against the petitioner and other accused persons. It is next submitted that this petitioner failed to justify the cause of loss of documents relating to selection of Aanganwadi Sevika/Sahayika and also did not initiate any punitive action against the co-accused persons, which raises doubt on the accountability of this petitioner. It is further submitted that the points raised in the instant petitioner are the defence of the petitioner which can only be looked at the stage of the trial after adducing evidences on behalf of the parties and as such, no interference is required by this Hon'ble Court at this stage. It is further submitted that at the stage of framing of charge, the court is only required to take into consideration the veracity of the offence.

6. Heard learned counsels appearing on behalf of the parties and perused the materials available on record. From bare perusal of the F.I.R., it is apparent that there is sufficient material against this petitioner for taking cognizance. It has come during course of investigation that the selection committee



consisted of the C.D.P.O., Dinara, and Mukhiya. In conspiracy, co-accused Krishnawati Devi was appointed as Aanganwari Sevika on the basis of educational certificates of her sister, namely Smt. Rinku Devi. At the time of taking cognizance, only the facts mentioned in the F.I.R./Complaint or the materials collected during course of investigation along with the charge-sheet are to be seen. If the materials placed before the court disclose grave suspicion against the accused, which has not been properly explained, the court will be fully justified in framing of charges and proceeding with the trial. In this connection, reliance can be placed on a judgment of the Hon'ble Apex Court passed in the case of *Sonu Gupta v. Deepak Gupta and Others* reported in *(2015) 3 SCC 424*.

7. In view of the aforesaid facts and circumstances of the case, this court does not find any illegality, irregularity or error in the impugned order.

8. Accordingly, this application is dismissed.

(Prabhat Kumar Singh, J)

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