

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.40988 of 2017**

Arising Out of PS. Case No.-120 Year-2016 Thana- C.B.I CASE District- Muzaffarpur

Lakshman Prasad Son of Sri Bunna Prasad , R/o Village- Koindi Gosai Patti  
P.O.- Tamkui Raj, P.S.- Tarya Sujan, District- Kushinagar Parsauna, Uttar Pradesh.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Superintendent of Police Cum S.H.O. Vigilance Investigation Beuro, Bihar Patna.
3. The Assitant Sub Inspector, Vigilance Investigation Beuro, Bihar, Patna.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Anirudh Kumar Verma, Advocate  
Mr. Vyas Kumar Mishra, Advocate

For the Opposite Party/s : Mrs. Archana Palkar Khopde, Advocate (Vigi)

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL JUDGMENT**

**Date : 09-05-2024**

1. This application is being filed for quashing the order taking cognizance dated 28.03.2017 passed in vigilance case no. 120/2016 in special case no. 56/16 passed by learned court of special Judge, Vigilance, North Bihar, Muzaffarpur whereby and whereunder, cognizance has been taken under sections 7/13(2) r/w section 13(1)(d) of the prevention of Corruption Act, 1988.

2. The prosecution case in brief as per the



F.I.R. is that one complainant namely Baidyanath Sharma Deputy Project Director, Agricultural Technology and Management Agency (hereinafter referred as "ATMA") posted at East Champaran, file application dated 14.10.2016 alleging therein that the then project Director of ATMA has demanded bribe of Rs. 5,000/- in lieu of disbursement of his salary. On allegation a raiding party has been constituted and under the leadership of Deputy Superintendent of Police namely Vijay Kumar Singh reached at Motihari and while taking action trapped the accused person with red hand, while taking bribe of Rs. 5,000/-.

3. In the background of aforesaid allegations as raised a vigilance case no. 120/16 was registered whereafter, investigation on the basis of procedure connected thereof, chargesheet was submitted for the offence under Section 7/13 (2) read with section 13 (1) (d) of Prevention of Corruption Act, 1988. The learned Special Court Vigilance North Bihar, Muzaffarpur has



taken cognizance against petitioner under aforesaid Sections vide order dated 28.03.2017, which is impugned order of present quashing petition.

4. Learned counsel appearing for the petitioner submitted that petitioner was director of the project ATMA, where he was alleged to accept bribe of Rs. 5,000/- from his deputy project director. It is further submitted that out of official disputes and differences as both, opposite party no. 2 and petitioner were working in same office, the present false implication was raised, where the petitioner was implicated in very planned and formulated manner. It is submitted that as on several occasion in past before lodging this case petitioner being director of ATMA issued show cause to opposite party no. 2 and being aggrieved with all such things, the present false case was registered.

4. It is submitted by learned counsel that the allegation as to pay bribe of Rs. 5,000/- was for disbursement of salary as petitioner was absent for three



days in that particular month. It is pointed out that for the absence of three days, deduction from salary was of Rs. 5176/- and for that payment of bribe of Rs. 5,000/- is appearing something absurd on its face, which is not appearing convincing. It is submitted that telephone bill of Rs. 5,508/- was required to be paid by opposite party no. 2 and with said amount by making vigilance department instrumental, the petitioner was implicated with present false case. In support of his submission, learned counsel referred Annexure-X, of the petition. Learned counsel appearing for the petitioner further submitted that out of same set of facts, for similar charges, a departmental proceeding was initiated against petitioner, where he was exonerated vide order dated 18.06.2020, vide Memo No. 505, issued by Deputy Secretary of Department of Agriculture, Government of Bihar. It is further pointed out that if the department fails to establish its case with the same charges during disciplinary proceeding, where standard of evidence



required on par of preponderance of evidence, it appears difficult to establish its case during the trial, where strict proof of evidence required as to establish its case beyond reasonable doubts. It is submitted that on this ground alone the proceeding before the learned trial court against petitioner is required to be quashed and set aside. In support of his submissions, learned counsel relied upon the legal report of Hon'ble Supreme Court as reported in the matter of **P.S. Rajya vs. State of Bihar** as reported through **(1996) 9 SCC 1**.

5. Learned counsel Miss Archana Palkar Khopde, while appearing on behalf of the Department of Vigilance of Bihar submitted that the ratio of **P.S. Rajya (supra)** is applicable only when charges for departmental proceedings are similar to that of criminal proceeding, but in this case the charges as raised through departmental proceeding are slightly different. It is also submitted that several things like; chemical analysis test, FSL report etc. were not considered during



the departmental proceeding and therefore, it cannot be said that it was decided with the same fact.

6. Learned counsel also relied upon the legal ratio established by Hon'ble Supreme Court as reported in the matter of **Radheshyam Kejriwal vs. State of West Bengal and Another** through **(2011) 3 SCC 581**.

7. It would be apposite to reproduce relevant part of Paragraph No. 17 of **P.S. Rajya Case (supra)**, which reads as:-

"17. At the outset we may point out that the learned counsel for the respondent could not but accept the position that the standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to establish the guilt in the departmental proceedings. He also accepted that in the present case, the charge in the departmental proceedings and in the criminal proceedings is one and the same. He did not dispute the findings rendered in the departmental proceedings and the ultimate result of it. On these premises, if we proceed further then there is no difficulty in accepting the case of the appellant. For if the charge which is identical could not be established in a departmental proceedings and in view of the admitted discrepancies in the reports submitted by the valuers one wonders what is there



further to proceed against the appellant in criminal proceedings.”

8. It would be apposite to reproduce relevant

Paragraph No. 38 of **Radheshyam Kejriwal Case (supra)**, which reads as:-

“38.The ratio which can be culled out from these decisions can broadly be stated as follows:

(i) Adjudication proceedings and criminal prosecution can be launched simultaneously;

(ii) Decision in adjudication proceedings is not necessary before initiating criminal prosecution;

(iii) Adjudication proceedings and criminal proceedings are independent in nature to each other;

(iv) The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;

(v) Adjudication proceedings by the Enforcement Directorate is not prosecution by a competent court of law to attract the provisions of Article 20(2) of the Constitution or Section 300 of the Code of Criminal Procedure;

(vi) The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and

(vii) In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases.”



9. In view of aforesaid factual and legal submissions, it appears that the petitioner and complainant/informant both were working in same office/same project, where petitioner was working as director and informant was working as deputy director. It appears that exoneration of petitioner from departmental proceeding is not on technical ground, rather on the basis of available merit, he was exonerated from the departmental proceeding vide order dated 18.06.2020. Learned counsel for the petitioner also filed an affidavit on 01.11.2023 in terms of order dated 30.10.2023 that during departmental proceeding same set of charges raised against petitioner as of present criminal proceeding, where the petitioner was exonerated considering the available merit. Therefore, by considering the ratio of **P.S. Rajya (supra)** the impugned order of taking cognizance dated 28.03.2017 with all its consequential proceedings, *qua*, petitioner arising thereof as passed in connection with vigilance



case no. 120/2016 in special case no. 56/16, pending before learned court of special Judge, Vigilance, North Bihar, Muzaffarpur, is hereby quashed and set aside.

10. Hence, this application stands allowed.

11. TCR (Trial Court Records), if any, be returned to learned trial court alongwith the copy of this judgment.

**(Chandra Shekhar Jha, J)**

Archana/-

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| AFR/NAFR          | NAFR       |
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