

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2722 of 2017

Arising Out of PS. Case No.-272 Year-2016 Thana- KOTWALI District- Patna

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Ajay Kumar, S/o Late Nirmal Kumar Singh, R/o Village- Hanthi Tola, P.S.-
Maner, District- Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar, Through Principal Secretary, Home, Government Of Bihar, Old Secretariat, Patna
2. The Principal Secretary, Home, Government of Bihar, Old secretariat, Patna.
3. The Director General of Police, Bihar, Old secretariat, Patna.
4. The Senior General of Police, Bihar, Old secretariat, Bihar.
5. The S.H.O., Maner P.S.- Patna.
6. The District Magistrate, Patna.
7. District Program Officer, Mid- Day Meal Scheme, Miller School, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Prakritita Sharma, Advocate
For the Respondent/s	:	Mr. Suman Kumar Jha, AC to AAG 3

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 23-02-2024 1. The petitioner has filed the instant writ petition for
the following reliefs:-

i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing FIR of Kotwali (Patna) P.S case no 272 of 2016 registered on 09.06.2016 for alleged offences under section 420, 465, 468 and 471 of the Indian Penal Code on the ground that the allegations contained therein do not disclose any cognizable criminal offence committed by the Petitioner.

ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents



not to take any further investigation / coercive steps against the Petitioner in pursuance to Kotwali P.S case no 272 of 2016.

iii) This Hon'ble Court may adjudicate and hold that no cognizable offence is made out as against the Petitioner as per the contents of the First Information Report, under section 420, 465, 468 or 471 of Indian Penal Code and therefore the Petitioner cannot be subjected to a criminal prosecution on the basis of same.

iv) This Hon'ble Court may further adjudicate and hold that the instant criminal prosecution is not sustainable in the eyes of law since there is absence of any mens rea or criminal intention.

v) This Hon'ble Court may further adjudicate and hold that criminal prosecution of the Petitioner vide Kotwali P.S case no 272 of 2016 is absolutely malicious, unwarranted and fraught with arbitrariness.

vi) To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner due to the wrong committed by the Respondents themselves.

vii) To grant/ award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case.

2. It is the case of the petitioner that Respondent No. 2 floated Tender Invitation No. 9 of 2016-2017 for the selection of transporters under the Mid-Day Meal Scheme in various Blocks of Patna. The last date of submission of the bids was fixed on



14th of March, 2016. It was stated according to the terms and conditions of that tender that in Blocks having 15 panchayats, 5 vehicles would be required and in Blocks with more than 15 panchayats, 8 vehicles would be required. The petitioner submitted his bid for Maner Block, having 19 panchayats. Therefore, the petitioner was under obligation to provide 8 vehicles for transportation of Mid Day Meal.

3. It was stipulated in the tender document that if any of the bidders does not have requisite number of vehicles, he may file his bid by outsourcing the vehicles. The petitioner outsourced some vehicles and submitted the tender documents. Clause 12 of the tender states:-

“12. समिति के समक्ष निविदा खुलने के पश्चात निविदा की शर्तों को पूर्ण करने वाले निविदादाता के निविदा में संलग्न वाहनों के कागजातों को जिला परिवहन पदाधिकारी से जांचोपरान्त सही पाये जाने पर जिला कार्यक्रम पदाधिकारी, मध्याह्न भोजन योजना द्वारा संबंधित चयनित निविदादाता से एकरारनामा किया जाएगा।”

4. Thus, the tenderer reserved his right to examine all documents relating to the vehicles and only when the documents of all the vehicles would be found correct, the tender would be issued.

5. During the inspection of documents, the respondents found two numbers of certificate of insurance in



respect of two vehicles forged and documents thereof were not produced by the petitioner. Accordingly, a complaint was issued against the petitioner, on the basis of which Kotawali P.S. Case No. 272 of 2016 under Sections 420, 465, 468 and 471 was registered against the petitioner on 9th of June, 2016.

6. It is submitted by the learned Counsel for the petitioner that, till date, the charge-sheet has not been filed due to the reason that further investigation has been stayed by an interim order of this Court.

7. Having heard the learned Advocates on behalf of the petitioner and the State/respondents and on careful perusal of materials on record, it is found from the tender document itself that Clause 12 clearly stipulates that tender will be issued in favour of a person after consideration of all documents with regard to the vehicles that will be placed by way of tender by a bidder. During examination of the document, it was found that two certificates of insurance were forged in respect of two vehicles. Both vehicles were outsourced.

8. The petitioner had no knowledge about the forgery of such certificate of insurance. Moreover, in respect of a tender, the obligation between the parties arises out of a contract. There is a thin line of difference between contract and cheating. Until



and unless no case is made out that the petitioner from the very beginning wanted to deceive with dishonest intention the respondents, no charge under Sections 419 and 420 are attracted. Moreover, there is no allegation that the petitioner himself forged those documents. Thus, the charge under Sections 467, 468, and 471 also does not attract against the petitioner.

9. In view of such circumstances, I am inclined to allow the instant writ petition and direct to quash the FIR being Kotwali P.S case no 272 of 2016 against the petitioner.

10. Accordingly, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

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