

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51439 of 2016

Arising Out of PS. Case No.-12 Year-2016 Thana- RANIGANJ District- Araria

Chandra Shekhar Singh, Son of Shri Mahabir Prasad Singh, Resident of
Jitwarpur Chouth, P.S.- Samastipur Muffasil, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Chittaranjan Sinha, Sr. Advocate Mr. Ravindra Kumar Shukla, Advocate Mr. Pratyush Pratap Singh, Advocate Mr. Ritu Raj Shukla, Advocate
For the Opposite Party/s :		Mr. Anil Kumar Singh No. 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 16-05-2024

1. Heard learned counsel appearing on behalf of
the parties.

2. The present application has been filed for
quashing the Criminal Prosecution against Petitioner
initiated on the basis of Raniganj P.S. Case No. 12/16,
lodged on 8.1.2016 for the alleged offences under
sections 409, 420 and 120 (B) of the Indian Penal Code.

3. Prosecution case in brief is that the Block
Development Officer, Raniganj vide letter No. 1367
dated 31.12.2015 informed the officer incharge Raniganj
Police Station to the effect that he has received a letter
of the District Magistrate, Araria dated 22.09.2014



appended with a letter of D.D.C., Araria, in which it is said that during the inspection by the D.D.C., it has been found that there has been financial irregularity in the construction work done in the scheme No. 1/12-13 under which I.T.C. Building has been constructed from the 13th Financial Commission Fund. It is further alleged that in aforesaid Financial irregularity, involvement of one Mr. Madhurendra Pd. Sinha, Junior Engineer and Assistant Engineer of the Rural Working Department was found, and as such, direction has been received by the Informant to lodge F.I.R. against them.

4. It is submitted by learned senior counsel Mr. Chittaranjan Sinha appearing for the petitioner that after investigation, S.P. Araria made a communication with Special Secretary, Rural Works Department, Government of Bihar, Patna, through letter no. 6140 dated 06.12.2023, wherein he specifically mentioned that there is no evidence against accused petitioner, namely, Chandra Shekhar Singh. It is further pointed



out that said letter is very clear on the point that the District Prosecution Officer, Araria through its office letter no. 84/23 dated 30.05.2023 also informed to the S.P., Araria that even despite of sanction for prosecution, in want of evidence, no charge-sheet can be submitted as sanction is only permission to initiate criminal proceedings. It is further submitted by learned senior counsel that on the basis of aforesaid letter, Rural Works Department, Government of Bihar through order no. 2657 dated 18.12.2023, exonerated the petitioner from departmental proceeding. While concluding the argument, it is submitted by learned senior counsel that the incident was of 2014, for which the FIR was lodged in year 2016 and despite of all such facts that there is no evidence against this petitioner, the charge-sheet was not submitted by police as exonerating petitioner till now, only for the reasons that sanction under Section 197 of the Cr.P.C. is awaited. It is pointed out that petitioner is suffering trauma of criminal investigation



since last eight years for nothing. In support of his submission, learned senior counsel relied upon the legal report of the Hon'ble Supreme Court as reported in the matter of ***Haji Iqbal @ Bala Vs. State of U.P.*** reported in ***2023 SCC OnLine SC 946***.

5. Learned APP Mr. Anil Kumar Singh No. 1 filed counter affidavit on behalf of S.P., Araria and submitted that as per progress report issued by Sub-Divisional Police Officer, Araria, it was found that the petitioner was not involved in the entire matter and allegation levelled against him was found not true, whereas as per said report, the allegation was found true against co-accused Madhurendra Kumar Sinha, as no incriminating evidence could collected against him during investigation, where supervision of the case was made by Senior Police Officer upto Inspector General of Police, Purnea.

6. It would be apposite to reproduce para 16 of the ***Haji Iqbal @ Bala case (supra)*** which reads as



under:

"In State of Andhra Pradesh v. Golconda Linga Swamy, (2004) 6 SCC 522, a two-Judge Bench of this Court elaborated on the types of materials the High Court can assess to quash an FIR. The Court drew a fine distinction between consideration of materials that were tendered as evidence and appreciation of such evidence. Only such material that manifestly fails to prove the accusation in the FIR can be considered for quashing an FIR. The Court held:—

"5. ...Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.

6. In R.P. Kapur v. State of Punjab, AIR 1960 SC 866 : 1960 Cri LJ 1239, this Court summarised some categories of cases where



inherent power can and should be exercised to quash the proceedings : (AIR p. 869, para 6)

- (i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;*
- (ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;*
- (iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.*

7. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private



complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death....."

7. It would be further apposite to reproduce para nos. 10 and 13 16 of the counter affidavit dated 14.05.2024, which reads as under:

"10. That it is stated that vide Memo No. 889/2023 dated 30.03.2023 Progress Report issued by Sub-Divisional police Officer, Araria. In that report allegation leveled against Madhurendra Kumar Sinha found to be true in nature but it was also found that other F.I.R. named accused Chandra Shekhar Singh was not involved in the entire matter and allegation leveled against him was not true.

13. That in the investigation allegation leveled against the Chandra Shekhar Singh is not true in nature."

8. In view of aforesaid factual and legal submission, as after thorough investigation in last eight years, no incriminating evidence was found against the petitioner, as to suggest his involvement in crime in question. On the basis of the report as discussed above,



which was issued by the office of S.P., Araria, the petitioner was also exonerated from departmental proceeding. It appears that final form against petitioner not submitted till now i.e. after eight years, only for the reason that sanction order for co-accused Madhurendra Kumar Sinha is still awaited. It appears that there is no evidence surfaced against petitioner, and, as such, by taking guiding note (iii) of ***R.P. Kapur’s case (supra)***, Raniganj P.S. Case No. 12/16 *qua* petitioner is hereby set aside and quashed.

9. Let copy of this order be sent to the trial court, without delay.

(Chandra Shekhar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.05.2024
Transmission Date	17.05.2024

