

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53046 of 2016

Arising Out of PS. Case No.-42 Year-2008 Thana- MUZFFARPUR COMPLAINT CASE
District- Muzaffarpur

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Md. Shahid Hussain, son of Late Ashfahque Ahmed, resident of village
– Unsar, P.S. -Bochha, District – Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar through Vigilance, Patna
2. The D.G. Vigilance, Patna.

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr.Surendra Kumar Singh, Advocate
For the Vigilance	:	Mr.Anil Singh, Law Officer

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 09-05-2024

Heard Mr. Surendra Kumar Singh, learned counsel
for the petitioner and Mr. Anil Singh, learned counsel for the
Department of Vigilance, Government of Bihar.

2. The present application has been filed for
quashing the order dated 29.07.2016, passed by learned
Special Judge, Vigilance, North Bihar, Muzaffarpur in
Complaint Case No. 42 of 2008 by which learned Special
Judge has refused to take cognizance against the accused
persons and dismissed the complaint case filed by the
petitioner on wholly erroneous grounds by overlooking
relevant and vital materials available on the record.



3. The brief facts of the case is that the petitioner has filed a complaint case bearing No. C-42/2008 in the court of learned Special Judge, Vigilance, North Bihar, Muzaffarpur against three accused persons namely, Javed Ahmed, Khusbhoo Ara and Amita Majumdar alleging therein that while he was the Secretary of School Education Committee, Unsar and went to inspect the Government Primary School on 07.02.2008, he found several illegalities in the School and submitted an application to the District Magistrate, where he alleged that the accused persons have misappropriated the govt. fund and the food-grains, which was allocated under several schemes, are being misutilized with an intention to black marketing, as also the appointment of Khusboo Ara was found to be suspicious.

4. Mr. Surendra Kumar Singh, learned counsel appearing on behalf of the petitioner submitted that despite of having all ingredients as to establish a *prima-facie* case for the alleged occurrence, no cognizance was taken and the complaint petition was rejected under Section 203 of the Code of Criminal Procedure, 1973 (hereinafter referred to as



the "Cr.P.C.") through the impugned order.

5. Mr. Anil Singh, learned Law Officer, Department of Vigilance, Government of Bihar, while opposing the petition submitted that the impugned order is not required to be interfered for the simple reason that the sanction in this matter was not obtained by the complainant which is a pre-condition for taking cognizance as per Section 19 of the Prevention of Corruption Act, 1988 (in short the "P.C. Act"). It is further submitted that this fact was also upheld through the judgment of Hon'ble Apex Court in the case of **Anil Kumar & Ors. v. M.K. Aiyappa & Anr.** reported in **(2013) 10 SCC 705.**

6. In view of the aforesaid factual and legal submission, as the complaint of petitioner before the learned trial court was dismissed under Section 203 of the Cr.P.C. with a reasoned order, where it appears that the same was dismissed in want of sanction order in view of Section 19 of the P.C. Act and also by taking guiding note of **Anil Kumar** case (supra).

7. Accordingly, the aforesaid impugned order need



not be interfered with.

8. The present petition stands dismissed.

9. Let a copy of this judgment be sent to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.05.2024
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