

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23307 of 2016

Arising Out of PS. Case No.-777 Year-2014 Thana- KHAGARIA District- Khagaria

Ravi Kant Mishra @ Ravi Mishra son of Arun Kumar Mishra, Resident of at present Senior Assistant Jyoti Structure Ltd. Krishna Nagar, Dumri Colony, P.S. Chitragupta Nagar District Khagaria. Permanent Address- Village-Tighora, P.O.- Kawani, P.S.- Alipur, District Ambedkar Nagar State U.P.

... .. Petitioner

Versus

1. State of Bihar
2. Ajay Kumar son of Late Jagdish Ram, Resident of Badha Kewal, Block Sono, P.S.- Sono, District- Jamui. At present Assistant Electric Engineer (Project) Electric Supply Division, Khagaria

... .. Opposite Partys

Appearance :

For the Petitioner	:	Mr. Mrityunjay Kumar, Advocate
For the State	:	Mr. Zainul Abedin, APP
For SBPHC	:	Mr. Anand Kumar Ojha, Adv.

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

12 25-10-2024 The present petition has been preferred by the Petitioner under Sections 482 Cr.P.C for quashing and setting aside the impugned order dated 28.11.2015 whereby cognizance of the offence punishable under Section 406, 420, 467 and 468 of the Indian Penal Code has been taken against the Petitioner.

2. On the written report of the Assistant Electric Engineer, (Project) Electric Supply Division, Khagaria, Khagaria P.S. Case No. 777 of 2014 was registered against the Petitioner for offence punishable under Section 406, 420, 467 and 468 of the Indian Penal Code.

3. The sum and substance of the allegation as



emerging from the written report of the informant is that under the Rajiv Gandhi Rural Electrification Scheme, the Government was required to provide electricity connection to the BPL Card holders without any charge. However the accused, Ravi Kant Mishra, who was the project In-Charge, had received bribe from few BPL Card holders for giving electricity connection. This written complaint has been given as per the statement of consumers and list of the names of such consumers has been mentioned in the written complaint.

4. Heard learned counsel for the Petitioner, learned APP for the State and Mr. Anand Kumar Ojha, learned standing counsel for the Bihar State Power Holding Company.

5. Learned counsel for the Petitioner submits that Petitioner is innocent and has falsely been implicated in this case. Even on the basis of the entire police material, which has been submitted along with charge-sheet, no offence is made out against the Petitioner. He further submits that as per the statements of the consumers which were named in the written complaint, only allegation is that for taking electricity connection, they paid bribe to the lineman and the contractor on their demand. They had stated to them that the bribe money goes to the higher officers including the Petitioner who was the



project in-charge. But there is no further statement in the whole case-diary that this money or any part of it, which was received by the line-man and the contractor, has been paid to any officers including the present Petitioner.

6. However, learned standing counsel for the Bihar State Power Holding Company, Mr. Anand Kumar Ojha, vehemently defends the impugned order whereby cognizance of offence has been taken against the Petitioner, submitting that the statement as made by the witnesses which are named in the written complaint is sufficient to take cognizance against the Petitioner, because for taking cognizance, only *prima facie* evidence is required.

7. Perused the material on record and considered the submissions advanced by both the parties.

8. There is no dispute with the submission of Ld. Counsel for the Bihar State Power Holding Company that at the stage of taking cognizance, only *prima facie* case is required to be made out for taking cognizance. But this *prima facie* case must be based on police material collected after investigation. But I find that there is no material in support of even *prima facie* case against the Petitioner. There is material to show that the bribe money received by the lineman and the contractor



were shared by the Petitioner. Hence, I find that the impugned order passed by the Ld. Magistrate is without application of judicial mind and without perusal of the police material filed along with the charge-sheet.

9. Hence, the impugned order is not sustainable in the eye of law. It is quashed and set aside, allowing the petition.

(Jitendra Kumar, J.)

Chandan/
Ramesh-

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