

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.21461 of 2021**

Arising Out of PS. Case No.-9 Year-2018 Thana- C.B.I CASE District- Patna

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RAMESH KUMAR RAMAN SON OF LATE ASHARAFI YADAV R/o  
Mohalla- Sattar, P.S.- Bihra, Distt.- Saharsa

... .. Petitioner/s

Versus

The union of India through C.B.I Delhi

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Chandra Mohan Jha

For the Opposite Party/s : Mr. K.N.Singh (A.D.S.G.)

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH**  
**ORAL ORDER**

2      23-02-2024                      Heard learned counsel for the parties.

2. This application has been filed for quashing the order 18.03.2020 passed by learned Special Judge, C.B.I 1<sup>st</sup>, Patna in Special Case No. 39 of 2018 arising out of RC0232018A0009 (RC Case No. 9(A) of 2018) dated 5.06.2018 under Section 7 of P.C. Act, 1988 whereby the prayer of the petitioner which was filed under Section 227 Cr.P.C. was dismissed.

3. Case of the complainant, in brief, is that the complainant works as parcel commission agent at Saharsa Railway Station where this petitioner, who is posted as parcel clerk, used to demand Rs. 50-100 per parcel as bribe. Thereafter, on the basis of the aforesaid complaint petition and verification report dated 04.06.2018, a regular case was registered against



the petitioner and another. Then investigation was done by the Depute Superintendent of Police, C.B.I. ACB, Patna in which the allegation was found true and a trap team was constituted on 06.06.2018 which caught one coolie of Saharsa Junction red handed receiving Rs. 48,00/- on behalf of the petitioner.

3.1. After investigation, the final report submitted by the C.B.I. bearing C.S. No. 9 of 2018 under Sections 120B of the Indian Penal Code and Section 7, 13(2) read with 13(1)(a) and 13(1)(d) of the P.C. Act, 1988 on 31.07.2018 before the learned Special Judge-1, C.B.I. Patna against the petitioner.

3.2. After perusal of the case record, learned Special Judge-1, C.B.I. Patna took cognizance under Section 7, 13(2) read with 13(1)(a), 13(1)(d) of the PC Act, 1988 on 08.08.2018 passed in Special Case No. 39 of 2018 against the petitioner and another.

4. Learned counsel for the petitioner submits that complaint of the complainant is vague and allegation against the petitioner is omnibus. In the complaint petition, the complainant himself stated that his consignment will come after 5-6 days and the petitioner will demand Rs. 50-100 per parcel as bribe. It is highly doubtful and hence, petitioner cannot be blamed. Since 2004, petitioner was working as Commercial Clerk, Parcel



Office, Saharsa Junction and no complain has been alleged against him by anyone. He further submits that at present, the complainant is not a duly appointed Commission Agent at Saharsa Junction and he suppressed this fact in the complaint petition. As a matter of fact, this complainant in collusion with other persons lodged a false and fabricated case before the C.B.I. and in connivance with other local persons set a trap against the petitioner in a very filmy manner. It is next submitted that the C.B.I. constituted a trap team merely on the statement of strange person without any real verification of the case and they found the allegation true merely on the basis of conversation on audio tape which was kept in the pocket of the complainant. The conversation was not recorded in presence of the C.B.I. Officer and the C.B.I. could not testify the said conversation of the complainant and the petitioner on report of Forensic Lab and thus he submits that continuation of the present proceeding would amount to abuse of the process of the court.

5. Countering the contentions made on behalf of the petitioner, learned counsel for the C.B.I. submits that there is sufficient evidence available on record by which cognizance has been taken against the petitioner. So far as the defence taken by



the petitioner in the present application, the same cannot be a good ground for quashment of the proceeding and the grounds which have been raised on behalf of the petitioner are his defence which can only be considered by leading evidence.

6. It appears that in this case charge has already been framed and one witness on behalf of the prosecution has already been examined.

7. At the time of framing of the charges, the probative value of the material on record cannot be gone into. At this stage of Section 227 and 228 Cr.P.C., the court is required to evaluate the material and documents on record with a view to find out the existence of all the ingredients constituting the alleged offence. In this context, reliance can be placed upon the judgment of Hon'ble Supreme Court is the case of ***Union of India v. Prafulla Kumar Samal & Anr*** reported in **AIR 1979 SC 366**. That apart, it is a settled law that after framing of charge, the question of discharge does not arise. Once charges are framed under Section 228 of the court, there is no backgear from discharging the accused under Section 227 of the Code. Discharge post framing of the charge is not viewed in the Cr.P.C. In the case of ***Stree Atyachar Veerodi Parishadh v. Dilip Nathumal Chordiya*** (1989 SCC(1) 715) the Apex Court



held that once the charges are framed, the accused is put to trial and thereafter either acquitted or convicted, but he cannot be discharged.

8. In view of the aforesaid facts, I do not find any illegality or irregularity in the impugned order dated 18.03.2020 passed in Special Case No. 39 of 2018. This application is, accordingly, dismissed.

**(Prabhat Kumar Singh, J)**

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