

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1653 of 2023

Arising Out of PS. Case No.- Year-0 Thana- District- Patna

Sudama Kumar, Son of Rameshwar Ram, Resident of Village and Post Pareo,
P.S. Bihta, District Patna-802160.

... .. Petitioner

Versus

1. The Union of India through the Secretary, Department of Revenue, Ministry of Finance, Government of India.
2. The Director, Directorate of Enforcement, Department of Revenue, Ministry of Finance, Government of India.
3. The Joint Director, Directorate of Enforcement, Department of Revenue, Ministry of Finance, Patna Zonal Office, Bank Road, Chandpura Place, Patna- 800001.
4. Sri Santosh Kumar Mandal, the Assistant Director, Director of Enforcement, Department of Revenue, Ministry of Finance, Patna Zonal Office, Bank Road, Chandpura Place, Patna- 800001.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Jai Vardhan Narayan, Advocate
For the ED	:	Mr. Abhay Shankar Jha, CGC
		Mr. Chandramauli Kumar, JC to CGC
		Mr. Hrishikesh, JC to CGC

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 09-01-2024 Heard Mr. Jai Vardhan Narayan, learned counsel for the

petitioner and Mr. Abhay Shankar Jha, learned counsel for the

Directorate of Enforcement (in short ‘E.D.’).

2. This writ application has been filed for setting aside
the summon dated 15.09.2023 (Annexure ‘P3’) issued by the
Assistant Director, E.D. calling upon the petitioner to appear on
25.09.2023 for the purpose of interrogation.

3. While seeking setting aside of the summon dated
15.09.2023, the petitioner has set up a ground that when he earlier

appeared on 31.07.2023 pursuant to similar kind of summons, he was assaulted by the Assistant Director, E.D. by hitting several slaps which caused injury to his ears and ultimately resulted in hearing loss.

4. Learned counsel for the petitioner placed before this Court a copy of the clinical notes of the Doctor of All India Institute of Medical Sciences, Patna (in short 'AIIMS, Patna') showing that the petitioner went to the Doctor at AIIMS, Patna in the midnight of 31.07.2023/01.08.2023 (01:30 A.M.) where he complained of his hearing problem from left ear. He reported to the Doctor about a physical assault and slap near left ear. This clinical note of AIIMS, Patna is the document on the basis of which this Court was persuaded to call for a counter affidavit.

5. A counter affidavit has been filed on behalf of the respondents which has been sworn by the Assistant Director, E.D. against whom it is alleged that he had given several slaps to the petitioner. The counter affidavit states in paragraph '9' that the petitioner is a close associate of one Ashok Kumar, who happens to be the Director of M/S Broad Son Commodities Private Limited. He is the key person who maintained records of cash related to sand mining undertaken by the Company, hence, in order to expedite the investigation and gather information, the petitioner was summoned. It is stated that in course of recording

of his statement, no physical or mental assault was caused to the petitioner. It is stated that on 01.08.2023, when the petitioner appeared for interrogation, he did not complain of hearing loss or any injury allegedly caused to him.

6. A plea has also been taken in paragraph '10' of the counter affidavit that the Medical Report does not reveal whether the alleged injury was self-inflicted or was inflicted by any other person. There is a specific denial that any force or coercion was exercised on the petitioner. It is stated that the petitioner willingly signed the statement recorded during the course of investigation.

7. The petitioner has filed a rejoinder to the counter affidavit. In his rejoinder, the petitioner has tried to explain as to why he could not appear on the recent dates fixed by the E.D. for his interrogation.

8. Learned counsel for the petitioner submits that the petitioner is always ready to co-operate with the E.D. in the matter of investigation and he is ready to abide by the summons, if any will be sent to him. The allegations of giving slaps causing injury to the petitioner have been reiterated by the petitioner.

9. Having heard learned counsel for the petitioner and learned counsel for the E.D. as also on perusal of the records, what has ultimately transpired is that the alleged occurrence is said to have taken place when the petitioner appeared pursuant to

summons on 31.07.2023. It is, however, an admitted position that prior to receipt of the summons dated 15.09.2023, the petitioner did not lodge any complaint with any authority either in administrative side or in judicial side. For about one and half months, if no complaint was made to any of the authorities and the petitioner maintained a complete silence on the cause, it would be difficult for this Court to enter into an inquiry on this issue in exercise of its power under Article 226 of the Constitution of India. The allegation that the petitioner was assaulted in course of investigation by the Assistant Director, E.D. has been emphatically denied in the counter affidavit, therefore, it becomes a disputed question of facts.

10. This Court is, therefore, not willing to exercise its plenary jurisdiction under Article 226 of the Constitution of India to act as a fact finding Court. This Court is, therefore, not entering into the merit of the allegations.

11. This writ application is dismissed. Liberty is there to the petitioner to seek his remedy, if any, as may be advised to him in accordance with law.

(Rajeev Ranjan Prasad, J)

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