

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79039 of 2023

Arising Out of PS. Case No.-7 Year-2000 Thana- VIGILANCE District- Patna

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1. UMESH PRASAD SINGH S/O LATE HARIDWARI PRASAD SINGH R/O 2B, BLOCK-B, ANAND SHRI APARTMENT, LOHIA PATH, JAGDEOPATH, PATNA.
 2. AJAY KUMAR SRIVASTAVA S/O LATE HARIBANSH SAHAY R/O VILLAGE AND P.O- HASSANPUR, P.S- BARAULI, DISTT.- GOPALGANJ.
 3. SUSHIL KUMAR SRIVASTAVA S/O DEONANDAN PRASAD R/O VILLAGE- BAHADURPUR, P.S- GOVINDGANJ, DISTT.- EAST CHAMPARAN.
 4. LALBABU PRASAD S/O SRI JAGARNATH PRASAD R/O VILLAGE- KHIRDIA, P.O AND P.S- JOGAPATTI, DISTT.- EAST CHAMPARAN.
 5. DHIRENDRA JHA S/O LATE SHYAM SUNDAR JHA R/O VILLAGE AND P.O- THARHI, P.S- ANDHRATHARHI, DISTT.- MADHUBANI.
 6. NAND KUMR SINGH S/O LATE GOPAL PRASAD SINGH R/O 34-A, PATLIPUTRA COLONY, P.S- PATLIPUTRA, PATNA.

... .. Petitioner/s

Versus

1. The State of Bihar
2. THE VIGILANCE BUREAU, BIHAR, PATNA THROUGH DEPUTY SUPERINTENDENT OF POLICE. BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Amit Srivastava, Sr. Advocate Mr. Jitendra Prasad Singh, Advocate Mr. Abhishek Singh, Advocate
For the Opposite Party/s :		Mr. Anil Singh, Special P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 31-01-2024 1. Heard learned Senior counsel for the petitioners,

Mr. Amit Srivastava and learned Special P.P. for the Vigilance,

Mr. Anil Singh.
2. The learned Senior counsel for the petitioners

submits that the present quashing application has been filed



seeking quashing of the order dated 04.09.2023 passed by learned Special Judge, Vigilance, Muzaffarpur in Special Case No. 94 of 2022 arising out of Vigilance Case No. 07 of 2000 whereby petition filed on behalf of the prosecution under Section 311 of the Cr.P.C. has been allowed.

3. The learned Senior counsel for the petitioners next submits that the aforesaid FIR came to be instituted on 25.02.2000 with respect to an occurrence which took place in the year 1990, it is further submitted that in the FIR, the informant alleged that on basis of direction of the Additional Director General Vigilance Bureau, Patna contained in Letter No. 507 dated 28.12.1999 an inquiry was conducted and it was found that General Manager of Lauriya Sugar Mill, in connivance with other accused persons has misappropriated 998 bags of sugar in the month of September, 1990 by selling the sugar in the name of forged purchaser by using forged vouchers. It is further alleged that in between 21.09.1990 to 28.09.1990, the Lauriya Sugar Mill sold 997 bags of sugar to M/S Gopal & Company, Gola Road, Muzaffarpur and M/S Lok Nath, Chhoti Ramna, Bettiah for Rs. 8,000,88/- but in preliminary inquiry, it has come to the knowledge that both the firms are forged having no valid license, accordingly the



FIR was instituted.

4. The learned Senior counsel for the petitioners, thus, submits that the FIR itself was instituted 10 years after the alleged occurrence, thereafter, the Vigilance started investigating the case and submitted charge sheet in the year 2007, but the charge sheet remained pending before the learned Trial Court for nearly seven years without cognizance, it is next submitted that cognizance came to be taken in the year 2014 and thereafter charges were framed in the year 2017.

5. The learned Senior counsel for the petitioners next submits that charges were framed on 18.10.2017 but the first witness came on 12.02.2018 and thereafter no witness was produced before the learned Trial Court, as such, the learned Trial Court, by its order dated 25.04.2018, closed the evidence of the prosecution, it is next submitted that prosecution filed an application under Section 311 Cr.P.C. on 29.06.2018 for examining the witnesses, but the same was objected by the petitioners herein, but the learned Trial Court by its order dated 19.07.2019, allowed the petition filed by the prosecution under Section 311 of the Cr.P.C. with a condition that the evidence must be completed within four months. It is



next submitted that thereafter one more witness i.e. P.W. 2 appeared on 09.08.2019 and his examination-in-chief was conducted but an application came to be filed on behalf of the petitioners before the learned Trial Court for a direction upon P.W. 2 to produce the original documents on which he was relying. It is further submitted that the said document was produced on 23.10.2019 but it appears that the P.W. 2 did not appear for his cross-examination but by then four months' period had elapsed, as such, the evidence was closed. It is next submitted that the prosecution on 02.12.2019 filed an application seeking extension of time by 6 months for leading evidence, but then the said application was not acted upon, as such, the prosecution again filed an application on 19.12.2019 under Section 311 Cr.P.C. with a prayer to reopen the case for examination of the witnesses. It is submitted that the application dated 19.12.2019 clearly recorded that within six months, all the prosecution witnesses would be examined. The application dated 19.12.2019 was allowed by the learned Trial Court by order dated 04.09.2023 which is impugned in the present quashing application.

6. The learned Senior counsel for the petitioners, thus submits that in view of the facts stated hereinabove, it



would become clear that the petitioners are facing the criminal prosecution for the last 24 years and one can well imagine the mental agony through which the petitioners must be going through on account of criminal prosecution. It is next submitted that the Vigilance every time files an application under Section 311 Cr.P.C. seeking to reopen the case for producing the witnesses within a time frame but then the time frame is not being adhered to.

7. The learned Special P.P. for the Vigilance factually does not dispute what has been submitted by the learned counsel for the petitioners but then submits that even petitioners are responsible for the delay. It is next submitted that the quashing application be disposed of with a direction to the learned Trial Court to conclude the trial within a time frame, to which the learned Senior counsel for the petitioners agrees.

8. Considering the submissions made by the learned counsels for the parties, **the quashing application is disposed of with a direction to the learned Trial Court to conclude the trial expeditiously and preferably within a period of six months from the date of receipt/production of a copy of this order.**



9. However, it is made clear that in the event if the petitioners try to take advantage of the present order by not making themselves available in the trial on the date fixed, in that event the learned Trial Court after recording reasons will be entitled to conclude the trial at its own will but if the prosecution does not co-operate or bring the witnesses in time, in that event the trial has to be concluded within a period of six months.

(Satyavrat Verma, J)

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