IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55945 of 2017

CNR No. BRHC010418562017

Arising Out of PS. Case No.-65 Year-2016 Thana- VIGILANCE District- Patna

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Vinit Kumar Sinha S/o Surendra Kumar Sinha Resident of Village- Sikandarpur Nayagaon,P.S. East Colony, District- Munger.

... ... Petitioner/s

Versus

1. State Of Bihar and Anr
2. The State of Bihar through the Cabinet Vigilance Department , Govt. of Bihar, Patna.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Y.V Giri, Sr. Adv.
Mr. Vikas Ratan Bharti, Adv.
For the Opposite Party/s : Mr. Anil Singh, Special Public Prosecutor (Vig.)

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CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL JUDGMENT
Date : 27-10-2026

1. Heard learned counsel for the petitioner and learned Special Public Prosecutor (Vigilance) for the State.

2. This application has been filed under Section 482 of the Code of Criminal Procedure, 1973 (corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) for quashing the order dated 14.09.2017 passed by the learned Special Judge, Vigilance (Trap), Patna in Special Case No. 29 of 2016, arising out of Vigilance P.S. Case No. 65 of 2016. By that order the petition dated 18.04.2017 filed by the petitioner seeking his discharge has been rejected. A prayer for stay of the further proceedings of the Special Case during the pendency of this

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application has also been made. The application is supported by an affidavit sworn by the brother of the petitioner.

3. The petitioner was posted as Block Development Officer, Pupri, in the district of Sitamarhi when the incident is alleged to have taken place. He has been sent up for trial for offences under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (the Act of 1988). This Court is of the considered view that the order impugned does not call for interference and that the application has to be dismissed. The view does not rest on any opinion about the guilt or innocence of the petitioner. The defence taken needs findings on contested facts and such findings lie outside the limits within which the inherent jurisdiction of this Court is exercised.

4. The case arises out of a written complaint dated 22.06.2016 given by Ram Kailash Ram to the Superintendent of Police, Vigilance Investigation Bureau, Patna. The complainant is a Jan Sevak (Gramin Prasar Karyakarta) attached to Pupri Block. He stated that his salary had remained unpaid from August 2015 for want of his absence statement (anupasthiti vivarani), that on meeting the petitioner he was told that the statement would not be sent unless Rs. 50,000 was paid and that

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he did not wish to pay. The complaint was marked to Constable Chandra Bhushan Kumar Singh of the Bureau for verification.

5. In his verification report the constable states that he went with the complainant to the Block Office at Pupri at about 3.00 PM on 23.06.2016 and that both of them met the petitioner in his chamber. The petitioner is said to have sent them to Satyendra Kumar Sahani, Technical Assistant, who stated that Rs. 50,000 would be required. On the complainant pleading his poor condition Sahani said that Rs. 40,000 would be the lowest and took the two back to the petitioner, who is said to have confirmed that the amount stood reduced from Rs. 50,000 to Rs. 40,000 and that the work would not be done for less. The complainant said that he would arrange the money in eight to ten days. The report is dated 01.07.2016.

6. A trap team was constituted on 01.07.2016 under Shri Vijay Kumar Srivastava, Deputy Superintendent of Police. At the pre trap proceeding held in the office of the Bureau between 8.00 PM and 9.30 PM the same evening the complainant produced forty currency notes of Rs. 1,000 each. Their numbers were recorded and the notes were treated with phenolphthalein powder and a demonstration of the sodium carbonate test was given to the members of the team. The

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complainant was told to pay only on a demand being made. The verifier was to remain with him and to signal by scratching his head once the money was accepted.

7. On 02.07.2016 the team met the complainant on the Runnisaidpur Pupri road and proceeded to a point about one kilometre short of the Block Office. The complainant and the verifier were sent ahead. They reported that the petitioner was not in the office but at his official residence within the Block premises and they went there. At about 11.05 AM the signal fixed earlier was received and the team entered the residence. The complainant and the verifier told the leader of the team that Rs. 40,000 had been taken from the complainant by the petitioner and Satyendra Kumar Sahani, that Rs. 10,000 of it had been counted and put by Sahani in the left pocket of his trouser and that Rs. 30,000 was in the hand of the petitioner.

8. Two persons from the locality, Md. Gufran and Ramkripal Das, were requested to act as independent witnesses. Before them thirty notes of Rs. 1,000 were recovered from the right fist of the petitioner and ten notes from the left pocket of the trouser of Sahani. The numbers are recorded as matching those noted at the pre trap stage. The washes of the fingers of both hands of the petitioner turned pink in sodium carbonate

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solution, as did the washes of the fingers of Sahani and of the pocket of his trouser. The post trap memorandum records that neither of them gave a satisfactory answer about the money. The washes were sealed and sent to the Forensic Science Laboratory. The report of the Laboratory is not part of the record placed before this Court.

9. The residence was then searched before the same witnesses. From a drawer built into the bed in the bedroom cash of Rs. 8,08,500 was recovered. The post trap memorandum records that on being asked about it the petitioner said that it was government money meant for the elections, that there was no Nazir in the Block and that he had no papers with him at that time. The amount was seized under a separate search and seizure list. Both the petitioner and Sahani were arrested.

10. Vigilance P.S. Case No. 65 of 2016 was registered on 02.07.2016 at 9.15 PM under Sections 7 and 13(2) read with Section 13(1)(d) of the Act of 1988 against the petitioner and Satyendra Kumar Sahani on the report of the leader of the trap team. In the course of investigation the statements of the complainant, the verifier, the two independent witnesses and other witnesses were recorded under Section 161 of the Code. Charge sheet No. 75 of 2016 was submitted on 30.08.2016.

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Sanction for prosecution of the petitioner was granted by the Law Department by order dated 14.10.2016, forwarded by the Rural Development Department by letter dated 21.10.2016. The case was numbered as Special Case No. 29 of 2016.

11. The petitioner says that he has been falsely implicated. According to him the complainant bore a grudge because he was trying to control the irregularities of the complainant in attendance. He relies on his letters dated 23.07.2015, 26.08.2015 and 13.10.2015 to the District Magistrate and dated 05.10.2015 to the Sub Divisional Officer, Pupri, about the conduct of the complainant and on a departmental proceeding against the complainant which ended by an order of the District Magistrate, Sitamarhi (memo no. 195 dated 08.03.2016) stopping four increments with cumulative effect. The records of that proceeding show that by memo no. 22 dated 06.01.2014 the Sub Divisional Officer, Pupri was nominated as the enquiry officer and the Block Development Officer, Pupri as the presenting officer. The petitioner further says that no bribe was ever demanded or taken, that no money was recovered from his hand, that after taking him from his residence the team stopped at the Bhanwari Hotel near the highway toll plaza at Runnisaidpur and dipped his hand in the

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solution there and that his signatures were taken on blank papers. The verification report is described by him as false, since he was not in his chamber at 3.00 PM on 23.06.2016, which according to him the CCTV footage of the chamber would show.

12. As to the cash of Rs. 8,07,500, the petitioner says that it was government money withdrawn from the Block account for payment to Rani Sati Petroleum (Rs. 2,18,409), Nitin Tent Light and Decoration (Rs. 5,71,194) and Nikhil Studio (Rs. 18,000) for services connected with the Panchayat elections of 2016, the three together coming to Rs. 8,07,603. He relies on the bills, on the statement of the Block account showing withdrawals of Rs. 1 lakh on 31.05.2016, Rs. 3 lakh on 24.06.2016 and Rs. 4 lakh on 27.06.2016 and on his letter dated 27.06.2016 to the Circle Officer, Pupri asking for a guard at his residence for the safety of the amount.

13. The discharge petition was heard by the learned Special Judge. As recorded in the order dated 14.09.2017, the petitioner contended there that the complainant had been set up by the Mukhiya and the Panchayat Sachiv of Gomati Panchayat with whom he had differences over the accounts of development work, that the cash was government money, that he and his predecessor had made earlier complaints against the

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complainant, that the sanctioning authority had not applied its mind and that the allegations were vague. The learned Special Public Prosecutor opposed the petition and pointed to the arrest of the petitioner after acceptance of Rs. 30,000, to the recovery of Rs. 8,08,500 from the residence and to the support given to the prosecution by the witnesses in the case diary. The learned Special Judge narrated the case from the complaint to the charge sheet, found that the witnesses in the case diary had supported the prosecution and that sufficient material existed for framing of charge, rejected the petition and fixed 13.10.2017 for hearing on the point of charge.

14. After the application was filed the petitioner brought on record by a supplementary affidavit a report dated 14.06.2018 of an Executive Magistrate of Pupri Sub Division, forwarded by the Sub Divisional Officer under memo no. 667 dated 21.06.2018 and by the District Magistrate, Sitamarhi under memo no. 699 dated 26.07.2018 to the Joint Secretary, Rural Development Department. The report was called for on a representation made by the brother of the petitioner and the supplementary affidavit describes it as finding the allegations against the petitioner to be false. As it stands on the record, the report states that the attendance of Ram Kailash Ram is marked

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at the Block Office on 22.06.2016 and 01.07.2016 although on both days he is also recorded as present at the Bureau in Patna, that the allegation about the CCTV footage of the chamber of the Block Development Officer for 23.06.2016 could not be examined as the footage was not made available, that the complainant was found to have the habit of erasing a cut attendance entry with water and marking himself present and that the allegation of the brother of the petitioner about an earlier police case of 2011 (Pupri P.S. Case No. 130 of 2011) lodged by the complainant, which the police found untrue, was found to be correct.

15. The State has filed a counter affidavit on behalf of the Vigilance Investigation Bureau. It supports the prosecution case as stated above, denies that the petitioner has been falsely implicated and says that the defence taken about the cash is to be tested at the trial. It states that charge was framed against the petitioner and the other accused on 31.08.2018 and that the case was at the stage of evidence with 11.10.2023 as the next date. The order framing charge and the later orders of the trial court are not on the record before this Court and the order framing charge has not been separately questioned in this application.

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16. Learned counsel for the petitioner has submitted that the complainant and the petitioner were on inimical terms from before, as the letters of the petitioner and the departmental action against the complainant show. It is further submitted that it is not believable that two persons so placed would reach an understanding to pay and to take a bribe. It is submitted that the petitioner was never caught with the money, that the cash in the residence was government money for which documents exist, that the verification report is contradicted by the CCTV footage, that the enquiry report supports the petitioner and that the learned Special Judge examined the material as if a trial was being held. It is argued on these grounds that the allegations and the evidence collected in support of them do not disclose an offence and that continuance of the case would be an abuse of the process of the Court.

17. Learned counsel for the State has opposed the application. On the strength of the counter affidavit it is submitted that the petitioner was arrested by the trap team on acceptance of Rs. 30,000 from the complainant, that the numbers of the notes were found to be the same as those recorded at the pre trap stage, that cash of Rs. 8,08,500 was found in the bedroom for which no satisfactory explanation was given, that

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the witnesses examined in investigation have supported the prosecution, that sanction has been granted and that the defence of the petitioner is a matter to be tested at the trial.

18. On a reading of the pleadings and the documents it appears that the parties are at issue on the following matters. They differ on whether the petitioner demanded Rs. 50,000 and later Rs. 40,000 from the complainant on and after 23.06.2016 and on whether the meeting at 3.00 PM on that day took place in his chamber with the petitioner present there. They differ on where and in what manner the petitioner was found on 02.07.2016, on whether the notes were in his fist as the prosecution says and on where the washes were taken. The origin and purpose of the cash of Rs. 8,08,500 and the relation of the bills, the account statement and the letter of 27.06.2016 to it are disputed. So are the existence of animosity of the kind alleged between the complainant and the petitioner and its bearing on the case of demand and acceptance. The standing of the report dated 14.06.2018 and of the CCTV footage is in question and the validity of the sanction, which was raised in the discharge petition, is also in question. Every one of these is a question of fact.

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19. The inherent power now contained in Section 482 of the Code has its origin in Section 561A of the Code of 1898. The Privy Council in **Emperor v. Khwaja Nazir Ahmad (AIR 1945 PC 18)** explained that the section conferred no new power on the High Court and only preserved the power which it already possessed, to be used for the ends stated in the section. It was also noticed there that the power is not meant to interfere with the functions which the law places on those charged with the duty of inquiry.

20. The petitioner sought discharge before the Special Judge and the standard which governs that stage must be kept in view. The Court assumes that the material placed by the prosecution is true and examines whether the facts emerging from it, taken at face value, disclose the ingredients of the offence. The question is whether there is ground for presuming that the offence has been committed and not whether a ground for convicting the accused has been made out.

21. Coming to the facts, animosity between the complainant and the petitioner is the main plank of the petitioner. The petitioner has produced his letters of 2015 and the departmental record concerning the complainant. The State denies that the complaint is the product of any grudge and says

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that the petitioner is only trying to turn the attention of the Court away from demand and acceptance of the bribe. The letters are communications of the petitioner himself. How far they concerned the complainant, what the superior officers did on them and how and why the departmental proceeding against the complainant ended as it did are matters to be proved through those who can speak to them. The submission is that two persons on bad terms would not arrive at a bribe understanding. That is an argument on probabilities, which the trial court can weigh once the evidence of the complainant, the verifier and the independent witnesses is before it. It cannot be settled on annexures to a petition. In **State by Lokayuktha Police v. K. Rangayya (2026 INSC 574 : 2026 SCC OnLine SC 963)** the accused had set up prior hostility with the complainant as the genesis of a trap case and the Hon'ble Supreme Court held in paragraph 32 that whether a complaint is actuated by *mala fides* is itself a matter of evidence and trial, that the motive of the complainant is to be tested by cross examination and that prior disputes between the parties are not by themselves a ground for quashing. In the same judgment it has been held that examining the outcome of trap proceedings, the absence of personal recovery, the result of the phenolphthalein test and the findings

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of a departmental enquiry in quashing jurisdiction amounts to a mini trial. Paragraph 17 of the said judgment reads as under:

> *"17. In the present case, the High Court, in our considered opinion, has traversed beyond the permissible limits of its jurisdiction under Article 226 in exercising the power under Section 482 CrPC. Rather than confining itself ascertaining as to whether any prima facie case has been made out of commission of offence on the basis of the contents of the FIR, the High Court proceeded to examine the outcome of the trap proceedings, the absence of personal recovery from Respondent No. 1, the result of the phenolphthalein test, and the findings of a departmental enquiry against some of the accused, all of which are matters of evidence to be evaluated at the stage of trial. By undertaking such a detailed examination, the High Court has in effect conducted a mini-trial, which is fundamentally contrary to the settled principles governing the exercise of the quashing jurisdiction."*

22. The cash of Rs. 8,08,500 stands on a different footing. The explanation that it was government money for election payments was given at the spot according to the post trap memorandum, though without papers. It has since been put forward in the application with the help of three bills, an account statement and the letter of 27.06.2016. The State says in paragraph 18 of the counter affidavit that no satisfactory explanation was given and that the time to test the defence is the trial. The account statement shows withdrawals from the Block

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account. It does not by itself show that the cash found on 02.07.2016 was the money so withdrawn, or what became of the money between the dates of withdrawal and the date of search. The bills were issued by private suppliers and their dates, the dates of supply and payment and the manner in which the Block Development Officer came to keep the amount in his bedroom are to be proved through those who prepared and received them. This Court does not decide which of the two versions is correct.

23. The petitioner says next that the meeting of 23.06.2016 could not have taken place since he was not in his chamber and that the CCTV footage would show it. The footage is not before this Court. The report dated 14.06.2018 itself states that it was not made available. Whether the footage exists, whether it can be called for and what it shows are for the trial court. The same is true of the attendance entries of the complainant for 22.06.2016 and 01.07.2016 mentioned in that report. The report came after the charge sheet and the sanction. It was prepared in an administrative enquiry on a representation of the brother of the petitioner and not in the course of investigation of the Vigilance case. As it appears on the record it does not refer to the trap of 02.07.2016 or to the recoveries. Its weight and the manner in which its contents are to be proved would depend on

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the evidence of its author and of the persons whose records were consulted. Its contents have not been tested by cross examination.

24. There is a narrow class of cases in which proceedings have been quashed on defence material. In **Rajiv Thapar v. Madan Lal Kapoor ((2013) 3 SCC 330, paragraph 30)** the Hon'ble Supreme Court asked whether the material relied upon by the accused is of "sterling and impeccable quality", whether it rules out the assertions in the charge, whether it has not been refuted and cannot justifiably be refuted by the prosecution and whether proceeding with the trial would be an abuse of process. The documents relied upon here are letters written by the petitioner, bills of private suppliers, a bank statement whose connection with the seized cash is itself in issue and an administrative enquiry report. The State disputes the use which the petitioner seeks to make of them. They do not belong to the class in which the prosecution case stands displaced without evidence. This is said on the test laid down in Rajiv Thapar and not on any finding as to what the documents may or may not prove at the trial.

25. As to the submission that the learned Special Judge held a trial while passing the order dated 14.09.2017, this Court

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has perused the order. It records the submissions of both sides, narrates the prosecution case from the complaint to the charge sheet and notes that the witnesses in the case diary have supported the prosecution and that sufficient material exists for framing of charge. It records no finding that demand, acceptance or recovery stand established and the defence of the petitioner has not been rejected on its merits. The learned Special Judge decided only whether the petitioner is to face the charge and did so on the footing that sufficient material exists. No error is found in that approach.

26. The challenge to the sanction was raised before the learned Special Judge. In **State Rep. by the Deputy Superintendent of Police, Vigilance and Anti Corruption Chennai City I Department v. G. Easwaran (2025 SCC OnLine SC 643)** the High Court had quashed a prosecution under Section 482 of the Code after holding the sanction to be invalid. The Hon'ble Supreme Court set that aside and held in paragraph 12 that findings on the legality and validity of sanction at that stage were premature, the question being one to be examined in the course of trial. Reliance was placed on paragraph 10 of **Dinesh Kumar v. Chairman, Airport Authority of India ((2012) 1 SCC 532),** which reads as under:

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> *"10. In our view, invalidity of sanction where sanction order exists, can be raised on diverse grounds like non-availability of material before the sanctioning authority or bias of the sanctioning authority or the order of sanction having been passed by an authority not authorised or competent to grant such sanction. The above grounds are only illustrative and not exhaustive. All such grounds of invalidity or illegality of sanction would fall in the same category like the ground of invalidity of sanction on account of non-application of mind—a category carved out by this Court in Parkash Singh Badal, the challenge to which can always be raised in the course of trial."*

This course remains open to the petitioner.

27. Taking the matter as a whole, the application asks this Court to prefer the version of the petitioner on a number of questions on which the prosecution has another version, supported by the trap proceedings and the statements of witnesses recorded in investigation. No legal bar to the proceeding has been pointed out. Charge was framed on 31.08.2018 and that order has not been questioned, so the stage of discharge has itself been crossed. The allegations, if accepted as they stand, are of acceptance of Rs. 30,000 by a public servant personally after a demand made directly and through a subordinate. They would constitute the offences charged. What

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the petitioner puts forward is false implication and that is a defence. As already noted above, it requires evidence on both sides. No ground is made out for exercise of the inherent jurisdiction of this Court.

28. The order dated 14.09.2017 passed by the learned Special Judge, Vigilance (Trap), Patna in Special Case No. 29 of 2016 is not interfered with and Cr. Misc. No. 55945 of 2017 is dismissed.

29. The petitioner is at liberty to raise before the trial court, in the course of trial and at the final stage, all the pleas taken in this application and in the discharge petition. These include the plea of animosity and false implication, the explanation for the cash recovered from the residence, the plea that he was not in his chamber at the time stated by the verifier, the CCTV footage, the report dated 14.06.2018, the departmental record of the complainant, the validity of the sanction and any other plea open to him in law. The State is equally free to meet them. They shall be decided by the trial court on the evidence led and on their own merits, without being influenced by anything said in this judgment. The observations made here are confined to the question whether this Court should exercise its jurisdiction

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under Section 482 of the Code and are not an expression of opinion on the merits of the case.

30.The learned trial court shall proceed with the trial and conclude it as expeditiously as possible, the petitioner and the State cooperating with the court. Let a copy of this judgment be sent to the learned court below at once.

(Ansul, J)

sakshi/-

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