

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.Rev. No. 807 of 2017

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Bijay Kumar Agrawal @ Vijay Kumar Agrawal.... Petitioner
Versus
The State of Jharkhand through Department
of Vigilance, Ranchi ... Opposite Party

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CORAM: HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

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For the Petitioner : Mr. Jitendra Singh, Sr. Advocate &
Mr. Nitin Kumar Pasari, Advocate
For the ACB (Vigilance) : Mr. Nilesh Kumar, Advocate

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Order No. 08

Dated 28th November, 2017

Heard Mr. Jitendra Singh, learned senior counsel for the petitioner and Mr. Nilesh Kumar, learned counsel for the ACB.

This application is directed against the order dated 20.05.2017 passed by learned Special Judge, ACB, Hazaribag in Special Case No. 06 of 1995, whereby and whereunder, the discharge application preferred by the petitioner, has been rejected.

Mr. Jitendra Singh, learned senior counsel for the petitioner has assailed the impugned order by stating that the learned Special Judge has failed to exercise his jurisdiction conferred upon him u/s 239 Cr.P.C. It has also been stated that the probative value of material collected in course of investigation has not been discussed and the impugned order, being cryptic in nature, deserves to be set aside. It has been further submitted that although it has been alleged that the firm of the petitioner is not in existence, but the facts are otherwise, as in Vigilance Case No. 52 of 1995 it was found in course of investigation that the firm of the petitioner, namely, Bhumi Vikas Kendra, Ratu Road, Ranchi is an existing firm. Learned senior counsel further submits that an application has been filed by the petitioner u/s 173(viii) Cr.P.C. for further investigation in view of the fact that the firm of the petitioner is in existence, but the Superintendent of Police, Vigilance had brushed aside such application on the ground that charge-sheet has already been submitted.

Mr. Nilesh Kumar, learned counsel appearing for the ACB has vehemently opposed the prayer made by the petitioner and has stated that in several cases instituted by the ACB the firm of the petitioner was not found to be in existence. It has been stated that the matter has been investigated upon and the charge-sheet has been submitted against the

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petitioner and others. The petitioner and the other accused persons had withdrawn and misappropriated a huge amount on the basis of forged bills and vouchers and therefore the learned trial court had rightly rejected the application for discharge preferred by the petitioner.

As it appears from the submission advanced by learned senior counsel for the petitioner that the firm of the petitioner is in existence, which was detected in course of investigation of Vigilance Case No. 52 of 195. The other issues which have been raised by the petitioner before the learned court below also seems to have not been discussed in the impugned order dated 20.05.2017. A perusal of the impugned order reveals that without considering the materials collected in course of investigation, the learned trial court has merely opined that there is sufficient evidence on record to frame charge against the petitioner. The impugned order has not even fleetingly described or considered the probative value of the material collected in course of investigation and the said order being cryptic and non-reasoned cannot be sustained in the eye of law.

In view of above, the impugned the order dated 20.05.2017 passed by learned Special Judge, ACB, Hazaribag in Special Case No. 06 of 1995, whereby and whereunder, the discharge application preferred by the petitioner has been rejected, is hereby quashed and set aside and the matter is remanded back to the learned Special Judge, ACB, Hazaribag to pass a fresh order in accordance with law after hearing the respective parties and making proper consideration of the submissions advanced by the respective parties. The aforesaid exercise should be concluded within a period of six weeks from the date of receipt/ production of a copy of this order.

This application stands disposed of.

(Rongon Mukhopadhyay, J)

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