

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. M.P. No.63 of 2016

Surendra Prasad, Son of Shri Jadu Nath Singh, resident of New Karmik
Nagar, Dhanbad, P.O. Seraidhela (ISM), P.S. – Seraidhela, District-
Dhanbad- 826001 ... Petitioner

Versus

The State of Jharkhand through Central Bureau of Investigation
... Opposite Party

CORAM: HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

For the Petitioner : Mr. Siddhartha Jyoti Roy, Advocate
For the C.B.I : Mr. Rohit Sinha, Advocate

Order No.06 Dated- 30.06.2020

Heard the parties through video conferencing.

2. This Cr.M.P. has been filed invoking the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure with a prayer for quashing the order dated 29.07.2015 passed by Special Judge, C.B.I. Dhanbad in R.C. Case No.07(A)/2013-D and to discharge the petitioner.

3. Learned counsel for the petitioner submits that the allegation against the petitioner is that the petitioner, in capacity of Personal Manager of Mudidih Colliery, BCCL, Dhanbad demanded a bribe of Rs.6,500/- through his clerk and co-accused Md. Yashin for processing the salary of the complainant for the month of March and April, 2013. The complaint was verified by the officers of the C.B.I. A regular case was registered and a trap team was constituted including the complainant and two independent witnesses. Pre-trap formalities were made. The co-accused made the complaint that the demand of Rs.5,000/- was demanded by the petitioner. After receiving the money, the co-accused was trapped. He stated before the C.B.I. Officer and witnesses that he has received the money as per the direction of the petitioner to prepare the salary of the complainant, hence, he will intimate the same to the petitioner. Thereafter, the co-accused took out his mobile phone and contacted the petitioner on loudspeaker mode and the petitioner replied that the co-accused should come with the money received by him and deliver the said money at the residence of the petitioner at Karmik Nagar, Dhanbad as being ill, the petitioner could not come to office on that day. The said conversation was overheard by the C.B.I. Officers and the witnesses. It is next submitted by the learned counsel for the petitioner that nothing has been recovered from the possession of the petitioner. Hence, the allegation of demand of bribe against the petitioner is based on hearsay and without legal

evidence. It is next submitted that the mandatory provisions under the Prevention of Corruption Act have not been complied with nor there any material to suggest that any *Sanha* was ever registered. It is further submitted that the investigation made in this case is perfunctory in nature and the allegations made against the petitioner are groundless. Hence, it is submitted that the impugned order be set aside and the petitioner be discharged.

4. Mr. Rohit Sinha- learned counsel for the C.B.I. submits that there is specific allegation against the petitioner of having received the bribe through the co-accused and the testimonies of the witnesses who have already been examined in this case, has brought sufficient material in the record to draw the presumption under Section 20 of the Prevention of Corruption Act, 1988 that the amount received by the co-accused was the bribe money on behalf of the petitioner. Hence, it is submitted that at this stage, it will not be proper to interfere with the impugned judgment which otherwise does not suffer from any illegality.

5. Perusal of the record reveals that a report was called for regarding the present status of the case. The same reveals that by now 13 of witnesses have been examined and summon have been issued for evidence to rest of the witnesses.

6. Having heard the submissions made at the Bar and after carefully going through the materials in the record, it is crystal clear that there is specific allegation against the petitioner of having received the bribe amount from the co-accused.

7. It is a settled principle of law that Under Section 227 of the Code of criminal procedure, the court is required to consider the "record of the case" and documents submitted therewith and, after hearing the parties, may either discharge the accused or where it appears to the court and in its opinion there is ground for presuming that the accused has committed an offence, it shall frame the charge. Once the facts and ingredients of the section exists, then the court would be right in presuming that there is ground to proceed against the accused and frame the charge accordingly. This presumption is not a presumption of law as such. At the stage of framing charge, a mini trial is not be conducted and if sufficient material is there to raise even a strong suspicion still charge is to be framed.

8. Considering the aforesaid facts of the case and in view of the specific allegation against the petitioner of having received bribe amount through the co-accused person as well as the principle of law as discussed above, this Court is of the considered view that this is not a fit case where the jurisdiction under Section 482 of the Code of Criminal Procedure of this Court be invoked for quashing the impugned order dated 29.07.2015 passed by Special Judge, C.B.I. Dhanbad in R.C. Case No.07(A)/2013-D by

which the learned court below has rejected the prayer for discharge made by the petitioner more so, at this belated stage, as already 13 witnesses have been examined.

9. Accordingly, this petition being without any merit is dismissed.

(Anil Kumar Choudhary, J.)

AFR-Animesh/