IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71418 of 2021

Arising Out of PS. Case No.-1 Year-2015 Thana- VIGILANCE District- Patna

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Shardendu Bhushan S/o Sri Sheojee Singh Assistant Engineer, Road Construction Departments, R/O - E/3, Phase Ii Ashiana Nagar, P.S.- Rajeev Nagar, District - Patna.

... ... Petitioner/s

Versus

1. The State of Bihar
2. The Vigilance Department Govt. of Bihar Patna

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Naresh Dikshit, Adv. Mr. Sarveshwar Tiwary, Adv. Mr. Narayan Kumar, Adv. Mr. Sourav Sharma, Adv. Ms. Pragati Patra, Adv. Mr. Pranav Raj, Adv.
For the SUV	:	Mr. Arvind Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT
Date : 11-08-2026

Heard the parties.

2. Present petition preferred by the petitioner under Section 482 of Code of Criminal Procedure (in short Cr.P.C.) for quashing of order dated 26.06.2019 as passed by Special Judge Vigilance Patna in Spl. Case No. 33 of 2015 arising out of Vigilance P.S. Case No. 01 of 2015 dated 30.06.2015 for the offences registered under sections 13 (2), r/w, 13(1)(e) of the P.C. Act 1988 through which the learned Special Judge (Vigilance) Patna took cognizance against the petitioner by violating the section 19 (1) b of the

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Prevention of Corruption (Amendment) Act 2018 in most mechanical way.

3. As per prosecution case, petitioner who was appointed as an Assistant Engineer in the Road Construction Department, Government of Bihar, while functioning as a public servant, had acquired wealth through corrupt and illegal means by abusing his official position, and had amassed movable as well as immovable assets in his own name and in the names of his wife and children, which were substantially disproportionate to his known sources of income. It is alleged that petitioner joined the government service as an Assistant Engineer on 13.12.2007 and continued in the said capacity thereafter. During the relevant period, his total income from salary was assessed at Rs. 36,00,000/-, whereas his expenditure under various heads was assessed at Rs. 17,03,405/-, leaving a likely saving of Rs. 18,96,595/-. However, against the said likely savings, he was alleged to have acquired movable and immovable assets and made investments valued at approximately Rs. 2,77,79,000/- in his own name as well as in the names of

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his wife and children. It was further alleged that he had made substantial investments in a business being run in the name of his wife with the intention of routing his alleged illegal earnings. Accordingly, the total value of the movable and immovable assets was stated to be Rs. 2,77,79,000/-, which, as alleged in the FIR, was substantially higher than his likely savings of Rs. 18,96,595/- and was, therefore, treated as disproportionate to his known sources of income.

4. Mr. Naresh Dikshit, learned counsel for the petitioner raised single issue in support of his submission that cognizance is bad in eyes of law as same was taken in absence of sanction order. It is submitted that the legal provisions as available under Section 19 of Prevention of Corruption (Amendment) Act 2018 categorically suggest that no cognizance can be taken without sanction and relied upon legal report of Hon'ble Supreme Court as passed in the matter of ***State of Haryana and Others vs. Bhajan Lal and Others*** reported in ***1992 Supp (1) Supreme Court Cases 335***.

5. The aforesaid submission was not disputed by

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learned counsel appearing for the Vigilance also referred the Hon'ble Apex Court order dated 22.07.2024 as passed in ***Shivendra Nath Verma vs. Union of India*** arising out of ***SLP (Crl.) No. 12708 of 2023.***

6. At this stage, it would be apposite to reproduce Section 19 in The Prevention of Corruption Act, which is as under:-

> ***"19.*** *Previous sanction necessary for prosecution.*
> ***(1)*** *No Court shall take cognizance of an offence punishable under [sections 7, 11, 13 and 15] [Substituted 'sections 7, 10, 11, 13 and 15' by Act No. 16 of 2018, dated 26.7.2018.] alleged to have been committed by a public servant, except with the previous sanction,*
> *(a) in the case of a person [who is employed, or as the case may be, was at the time of commission of the alleged offence employed] [Substituted 'who is employed' by Act No. 16 of 2018, dated 26.7.2018.] in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;*
> *(b) in the case of a person [who is employed, or as the case may be, was at the time of commission of the alleged offence employed] [Substituted 'who is employed' by Act No. 16 of 2018, dated 26.7.2018.] in connection with the affairs of a State and is not removable from his office save by or with sanction of the State Government, of that Government;*
> *(c) in the case of any other person, of the authority competent to remove him from his office.*
> *[Provided that no request can be made, by a person other than a police officer or an officer of an investigation agency or other law enforcement authority, to the appropriate Government or competent authority, as the case may be, for the previous sanction of such Government or authority for taking cognizance by the*

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court of any of the offences specified in this sub-section, unless-

(I) such person has filed a complaint in a competent court about the alleged offences for which the public servant is sought to be prosecuted; and

(ii) the court has not dismissed the complaint under section 203 of the Code of Criminal Procedure, 1973 and directed the complainant to obtain the sanction for prosecution against the public servant for further proceeding:

Provided further that in the case of request from the person other than a police officer or an officer of an investigation agency or other law enforcement authority, the appropriate Government or competent authority shall not accord sanction to prosecute a public servant without providing an opportunity of being heard to the concerned public servant:

Provided also that the appropriate Government or any competent authority shall, after the receipt of the proposal requiring sanction for prosecution of a public servant under this sub-section, endeavour to convey the decision on such proposal within a period of three months from the date of its receipt:Provided also that in case where, for the purpose of grant of sanction for prosecution, legal consultation is required, such period may, for the reasons to be recorded in writing, be extended by a further period of one month:

Provided also that the Central Government may, for the purpose of sanction for prosecution of a public servant, presecribe such guidelines as it considers necessary.

Explanation. - For the purposes of sub-section (1), the expression "public servant" includes such person-

(a) who has ceased to hold the office during which the offence is alleged to have been committed; or

(b) who has ceased to hold the office during which the offence is alleged to have been committed and is holding an office other than the office during which the offence is alleged to have been committed.]

7. It would be further apposite to reproduce the order of Hon'ble Supreme Court as available through ***Shivendra Nath Verma case (supra)*** which is as under:-

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> *"Leave granted.*
> *In view of Section 19(1) of the Prevention of Corruption Act, 1988, we do not think that the trial Court was justified and correct in law in taking cognizance in the absence of sanction by the competent authority.*
> *In view of the aforesaid position, the order taking cognizance dated 12.10.2020 is set aside qua the appellant, Shivendra Nath Verma. The effect thereof would be that the impugned judgment/order dated 19.06.2023, upholding the order of cognizance to that extent, is also set aside.*
> *It is accepted and admitted at the Bar that the competent authority has granted sanction vide order dated 27.07.2022. It will open to the Union of India/Central Bureau of Investigation to file the said sanction order before the competent Court, which may thereupon examine the take case and, if deemed appropriate, cognizance and proceed against the appellant, Shivendra Nath Verma.*
> *During the course of hearing, it was argued on behalf of the appellant, Shivendra Nath Verma, that as the sanction dated 27.07.2022 was obtained after the order of cognizance dated 12.10.2020, the said sanction should be treated as void in view of the decision of this Court in Nanjappa v. State of Karnataka[2]. We are not inclined to accept the said submission. The ratio of the said decision is to the effect that the trial Court could not have taken cognizance in view of the bar contained in Section 19(1) of the 1988 Act. We do not think that the ratio of the aforesaid decision extends to invalidating the sanction granted, after the order taking cognizance was passed.*
> *The appeal is allowed in the above terms.*
> *We make it clear that the observations made in this order only pertain to the appellant, Shivendra Nath Verma. The order taking cognizance against the other accused, where sanction was not required, will not get affected.*
> *Pending application(s), if any, shall stand disposed of."*

8. It would be appropriate to reproduce the paragraph no. 102 of the Apex Court decision in the case of ***Bhajan Lal Case (supra),*** which reads as under:-

> *"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the*

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extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first informant report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of nay offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent persons can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

9. Considering the legal issues as discussed

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aforesaid and also provision as available under Section 19 of Prevention of Corruption Act, the impugned cognizance order dated 26.06.2019 with all its consequential proceedings, *qua*, petitioner is hereby quashed and set aside in view of ***Shivendra Nath Verma case (supra).***

10. Hence, this application stands allowed.

11. TCR (Trial Court Records), if any, be returned to learned trial court alongwith the copy of this judgment.

(Chandra Shekhar Jha, J)

Sudha/-

AFR/NAFR	NAFR
CAV DATE	NA
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