

Subodh Kumar Singh & Ors. vs The State Of Bihar on 5 July, 2016

Author: Shivaji Pandey

Bench: Shivaji Pandey

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.22924 of 2016

Arising Out of PS.Case No. -13 Year- 2015 Thana -GOVERNMENT OFFICIAL COMP. District-
PATNA

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1. Subodh Kumar Singh, son of Sri Ram Janam Singh, resident of Village
Naya Gaon, P.S. Desri, District-Vaishali
2. Nawal Kumar Sahni, son of late Tulsi Salmi, resident Yadab Rai Grant,
P.O. & P.S. Bokajan Diphu, District Karbi Anglong, Assam
3. Noor Alarn, son of Sri Gaffar Alam, resident of village Sher Nagar, P.S.
Aagomani, District-Dhubri, Assam.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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with

Criminal Miscellaneous No.55151 of 2015

Arising Out of PS.Case No. -718 Year- 2015 Thana -GOVERNMENT OFFICIAL COMP. District-
PATNA

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- 1 Subodh Kumar Singh, son of Sri Ram Janam Singh, resident of Village
Naya Gaon, P.S. Desri, District-Vaishali
- 2 Nawal Kumar Sahni, son of late Tulsi Sahni, resident Yadab Rai Grant,
P.O. & P.S. Bokajan Diphu, District Karbi Anglong, Assam
- 3 Noor Alam, son of Sri Gaffar Alam, resident of village Sher Nagar, P.S.
Aagomani, District-Dhubri, Assam.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

with

Criminal Miscellaneous No.26178 of 2016

Arising Out of PS.Case No. -Year- Thana - District- VAISHALI(HAJIPUR)

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- 4 Subodh Kumar Singh, son of Sri Ram Janam Singh, resident of Village
Naya Gaon, P.S. Desri, District-Vaishali
- 5 Nawal Kumar Sahni, son of late Tulsi Salmi, resident Yadab Rai Grant,
P.S. Bokajan Diphu, District Karbi Anglong, Assam
- 6 Noor Alam, son of Sri Gaffar Alam, resident of village Sher Nagar, P.S.
Aagomani, District-Dhubri, Assam.

.... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

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Appearance :

(In Cr.Misc. No.22924 of 2016)

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate
Mr. Ran Vijay Kumar Singh (not present)
Patna High Court Cr.Misc. No.22924 of 2016 (5)

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For CBI	Mr. Rajendra Singh @ Shastri, Advocate
For the State	Mr. Bipin Kumar Sinha,
For DRI	:Mr. Binod Kumar NO.3 (App)
(In Cr.Misc. No.55151 of 2015)	Mr. S.D. Sanjay
For the Petitioner/s	: Mr. Raj Nandan Prasad
For the Opposite Party/s	: Mr. Nand Kishore Pd. (App)
For CBI	Mr. Bipin Kumar Sinha
For DRI	Mr. S. D. Sanjay
(In Cr.Misc. No.26178 of 2016)	
For the Petitioner/s	: Mr. Nawal Kishore Agrawal, Sr. Advocate
For the State	: Mr. Sri Binod Kumar 3 (APP)
For CBI	Mr. Bipin Kumar Sinha
For DRI	Mr. S. D. Sanjay

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL ORDER

5 05-07-2016

Heard Mr. N.K. Agrawal, Sr. Advocate and Mr. Rajendra Singh @ Shastri for the petitioner, Mr. S.D. Sanjay, Additional Solicitor General representing the DRI, Mr. Binod Kumar No.3 for the State and Mr. Bipin Kumar Sinha, Standing Counsel for CBI.

2. During vacation I was assigned to conduct the cases of bail, an application vide Cr. Misc. No. 22924 of 2016 (Subodh Kumar Singh & others v. The State of Bihar) was placed on 2.6.2016 for bail which is arising from DRI/LZU/PRU/718 (ii)/ ENQ-o8/15/296, arising out of Special Case No.13 of 2015, registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substance Act. The facts stating, inter alia, office of Revenue Department, Government of India on the basis of secret information intercepted Tata 709 with petitioners (criminals) from their possession Ganja was recovered. In the bail application and prosecution report annexed with petition where at different places recovery has been shown of 7 Kg. of Ganja. In the order-sheet of the court below, the quantity of seizure has been shown to be 7 Kg. of Ganja. This Court looking to the quantity of Ganja, granted bail.

3. On 21st June, 2016 at 4.30 P.M., Mr. N.K. Agrawal, Sr. Advocate came to my Chamber and informed me that some fraud has been played in obtaining the order whereupon I directed the Registrar General of this Court by an administrative order for production of original records as well as photo copy relating to case no. DRI/LZU/PRU/718 (ii)/ ENQ-o8/15/296, arising out of Special Case No.13 of 2015 whereupon the original records were brought by Mr. Md. Gulam Gous, Additional District Judge XI, Patna which was produced before me and I have also directed to prepare photo copy of the entire record of the case and be kept along with records of Cr. Misc. No.22924 of 2016. Accordingly photo copy of the entire record of the court below has been kept below for ready reference and for future action. Original lower court records were returned back on the same day to the officer concerned.

4. On perusal of the records it transpired that really a fraud has been played as in actuality the agency has intercepted and recovered 277 Kg. of Ganja from the possession of the accused persons but at different places in the prosecution report as well as in the order-sheet quantity has been shown to be 7 Kg. of Ganja. It is not the single instance of fraud but on perusal of the record it appears that petitioners had earlier moved before this Court vide Cr. Misc. No.55151 of 2015 (Subodh Kumar Singh and others v. The State of Bihar) through Mr. Raj Nandan Prasad, Advocate. There also manipulation in the record has been done as in place of 277 Kg. of Ganja it has been shown to be 27 Kg. of Ganja. The case was placed before Hon'ble Mr. Justice Dinesh Kumar Singh, who rejected the bail of the petitioners vide order dated 4.12.2015.

5. DRI was necessary party but purposely neither DRI nor Union of India was made party nor were copies served upon learned counsel for the Union of India. The stamp reporter has pointed out this as defect indicating Union of India is necessary party whereupon Mr. Ran Vijay Kumar Singh, Advocate AOR No.4609 advocate on record filed an application for ignoring the defect pointed out by the office. The office under wrong impression allowed the said application thereby defect pointed out by the stamp reporter was ignored. Accordingly Union of India was ignored to be made as a party nor copy was served upon counsel for the Union of India.

6. In the bail application petitioners are silent to have moved before this Court earlier which is completely suppression of essential facts. Looking to the serious nature of fraud, directed the office to place the case under heading "To Be Mentioned"

along with Cr. Misc. No.55151 of 2015 (Subodh Kumar Singh and others V. The State of Bihar.

7. Mr. N. K. Agrawal, Sr. Advocate has filed an application vide Cr. Misc. No.26178 of 2016 (Subodh Kumar Singh and others v. The State of Bihar), there he himself has sworn an affidavit, averred that file was handed over to him in Court and without verifying the statement he has argued the case and this Court looking to the quantum of Ganja has granted bail to the petitioners.

8. In course of argument he has submitted that Mr. Rajendra Singh alias Shastri, Advocate had handed over the file to him who was present in Court, accepted the statement of handing over the file to him for argument of the case. On query from the Court Mr. Rajendra Singh alias Shastri,

Advocate disclosed the name of one Mr. Nandu who is a registered Advocate Clerk of Mr. Sanjay Kumar @ Manu, Advocate requested him to get engagement of Mr. N. K. Agrawal, Sr. Advocate in the present case.

9. The case was taken up on 29th June, 2016, as per direction of this Court Mr. N. K. Agrawal, Sr. Advocate, Mr. Rajendra Singh @ Shastri, Advocate as well as Mr. Raj Nandan Prasad, Advocate have filed their respective affidavits which will be dealt with at later stage.

10. In the course of proceeding, Mr. Nandu, Advocate Clerk against whom allegation has been made to have handed over the file to Mr. Rajendra Singh @ Shastri has denied statement, submitted that he is a petty clerk earning Rs.200 per day had not handed over the file to Mr. Rajendra Singh @ Shastri for engagement of Mr. N.K. Agrawal, Sr. Advocate whereupon this Court directed Mr. Nandu to file an affidavit explaining his stand in the present case.

11. This Court also directed Mr. Raj Nandan Singh, Advocate, as he has disclosed the name of one Mr. Chandra Deo Prasad, Advocate Clerk of Mr. Dharendra Kumar Sinha sitting in Chamber No.161, Bihar Bar Council Bhawan, High Court Patna to inform Mr. Chandra Deo Prasad to file an affidavit and explain his stand with respect to Cr. Misc. No.55151 of 2015 (Subodh Kumar Singh & others v. The State of Bihar).

12. On perusal of the record it appears that fraud has been played in a very serious manner and adopting a wrong method obtained the order of bail from this Court.

13. This Court has smelt racket in the sense that order rejecting bail application by the District & Sessions Judge, Patna which was annexed with bail application, where it has been mentioned the recovery of only 7 Kg. of Ganja, printed in the order-sheet but in actuality the order of District & Sessions Judge discloses about recovery of 277 Kg. of Ganja whereupon by an administrative order this Court directed the District & Sessions Judge, Patna to submit a report about status of the certified copy annexed to the bail application. The District Judge, Patna conducted enquiry found that the impugned order attached to the bail application is a fake document (order) as neither petitioners nor their agents did apply for certified copy through Chirkut No. D 16337 as only 13000 and odd applications (Chirkuts) were filed for certified copy and as such question of being Chirkut No.D 16337 itself is a fake and fabricated number and submitted the report giving details of facts. In order to arrive to correct conclusion, it is necessary to closely examine the records of the case. In the prosecution report dated 16.5.2016 it has been mentioned as follows:

14. The seizure memo also discloses 277 Kg. of Ganja was recovered. For convenience it will be easy to quote the seizure memo:

15. The Intelligence Officer, DRI, Patna filed an application on 20.5.2015 before the District & Sessions Judge, Civil Court, Patna, there also he has disclosed the seizure of 277 Kg. of Ganja in the following manner:

16. From perusal of the records of the court below it appears, one Mr. Om Prakash, Advocate had argued the case of petitioners. The order of the court below rejected the bail application disclosed the quantity of recovery of Ganja was 277 Kg in the following manner:

17. On perusal of the records it discloses that at different stages the records have been manipulated, fraud has been perpetrated right from beginning as the order dated 25.8.2015 of the District Judge, Patna shows recovery of 277 Kg. of Ganja whereas in the certified copy attached with the present case, 7 Kg. Ganja has been shown to have been recovered whereas in Cr. Misc. No. 55151 of 2015 in the same order recovery was shown to be 27 Kg. of Ganja, so much so certified copy of impugned order attached with bail application is a fake document, prepared out side.

18. On perusal of all these facts it is apparently clear that fraud has been played at large, in the sense manipulated prosecution report has been filed, fake order-sheet has been attached so much so Mr. Ran Vijay Kumar Singh, Advocate who is an advocate on record remained absent and did not file an affidavit explaining his stand. This Court is of the view that some persons have formed a syndicate trying to snatch the order in their favour by playing fraud applying various methods. It transpired to this Court that same Ran Vijay Kumar Singh has been detected to be involved in playing fraud in filing bail application of Munchun Kumar Rai v. State of Bihar vide Cr. Misc. No.18211 of 2016. In that proceeding Mr. Ran Vijay Kumar Singh remained absent althrough. Looking to the nature manipulation in the record and considering serious nature of manipulation the Court directed for institution of the criminal case and asked the Central Bureau of Investigation for investigation and take action in accordance with law. It is proper to quote operative part of the order, is as follows:

"In view of the exceptional circumstance, as has been noted above and in view of urgency of the matter, I make the following order for the present:-

(i) The Registrar (Vigilance) is directed to lodge a First Information Report with the Central Bureau of Investigation, A.C.B., Patna, today itself, based on the orders of this Court, dated 06.06.2016 and 07.06.2016, and the report, dated 07.06.2016, submitted by him in compliance of those orders. The First Information Report must be registered today itself.

(ii) It will be open to the Central Bureau of Investigation to investigate as to whether there is a large scale conspiracy and by playing fraud upon the Court, on the basis of forged documents, any person/persons have been released from the judicial custody in any manner whatsoever or such attempts have been made.

(iii) The Registrar (Vigilance) will be required to extend all necessary assistance to the Central Bureau of Investigation in this regard. He shall be further required to supply to the Superintendent of Police, Central Bureau of Investigation, Patna, authenticated copies of the records of the present case and other materials as and when required.

(iv) The Advocate-on-Record status of learned Counsel, Mr. Jay Kumar (AOR NO. 01047) and Mr. Ran Vijay Kumar Singh (AOR No. 04609) shall remain under suspended animation, till further

orders.

(v) It has been reported to me that their enrolment numbers with the State Bar Council are 9430 of 1996 and 585 of 1990 respectively. I would have issued show cause notices to them in order to have their explanation before passing any order against them, but since they have absented themselves from the Court's proceedings deliberately, I direct that their licenses to practice as Advocates shall also remain under suspension, till further orders.

(vi) It will be open to the State Bar Council to take disciplinary action against the above mentioned lawyers.

(vii) After having seen the report submitted by the learned Registrar (Vigilance), I am of the prima facie view that the parties get a chance to commit fraud after they take their applications back in the name of removal of defect(s) after initial stamp reporting. To stop that, I direct that from today itself, no copy of bail application shall be returned after stamp reporting and the defect(s), if any, shall have to be removed by the respective learned Counsel in the Registry itself, which shall be done under the surveillance of CCTV.

(viii) All the applications for grant of anticipatory bail or regular bail shall, henceforth, be filed along with the certified copy of the respective First Information Report. This will be subject to decision, if any, taken in future by High Court on the question of necessary amendments in the Patna High Court Rules. For the said purpose, let this order be placed before Hon'ble the Acting Chief Justice.

(ix) It is further directed that henceforth, it will be the responsibility of learned Advocate-on-Record, before filing an application for anticipatory bail or regular bail, to cross-check and verify the correctness of statement, if any, that prior to filing of the said application, the petitioner had not filed any such application before this Court, on the basis of the information available on the website of this Court or otherwise.

(x) In my view, this evil could be, to some extent, overcome by maintaining computerized data of the First Information Reports. Mr. Anjani Kumar, learned Additional Advocate General, on the instructions from the Inspector General of Police (Modernization), has submitted that there is no possibility of computerization at the level of Police Stations in near future and a scheme under "Crime and Criminal Tracking Network System" is underway which is likely to take about two years. However, keeping in view the urgency of the matter, in order to explore possibilities of quick solution, I direct the Inspector General of Police (Modernization), Patna, to be present personally in Court on 09th June, 2016. "

19. It appears that this Court has also found perpetration of fraud in the case of Tuntun Gope @ Langra V State of Bihar (Cr. Misc. No. 39953 of 2014) which was detected at the time of argument of case. The Court passed the following order:

"39. In order to bring purity in the Judicial process, the Registrar General, Patna High Court is directed to proceed with the ongoing enquiry into the matter personally

and thereafter apart from taking other action as he may deem fit and proper in the matter in administrative side, he shall institute an F.I.R. in the police station concerned so that the persons involved in playing fraud upon the Court and undermining the Majesty of Justice are booked. Considering the seriousness of the matter, it is expected that the Registrar General shall conclude the enquiry expeditiously."

20. There may be many more such cases. Let us examine facts mentioned in the bail application, affidavits filed by Mr. N. K. Agrawal, Sr. Advocate, Mr. Rajendra Singh @ Shastri, Advocate and Mr. Raj Nandan Singh, Advocate. First this Court would deal with the facts mentioned in the bail application (Cr. Misc. No.22924 of 2016). In paragraph 4 of the bail application it has been mentioned, 2 packets of Ganja were recovered from chassis of the truck from welding in iron out of 2 were black packets total were weighing 7 Kg.

21. Mr. N.K. Agrawal in his petition (Cr. Misc. No. 26178 of 2016) has given its own explanation in what manner his office works. It will be relevant to quote paragraph nos. 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14:

"5. That usual practice prevalent in the Hon'ble Apex Court or in this Hon'ble High Court or in other Court is that the junior counsels engages senior advocates to argue the case (Bail or any other matters)

6. That they give the file (Bail or any other matters) in the office of the concerned designated Senior counsel, in the evening, or in the Court itself for making submissions and the Senior Counsels argue the case on the instructions of the Junior counsels.

7. That the same practice is adopted by me while any junior advocate comes to engage me for engagement for his/her matter.

8. That after argument is over or order is passed I generally return the file to the junior engaging me.

9. That role of senior counsel is very limited in as much as he places before the Hon'ble Court matter written in the petition or as briefed by the advocate on record and assist the court in passing order.

10. That the senior advocates never verify who has filed the bail application in the Hon'ble High Court or who is the advocate on record.

11. That so far as I am concerned, when a lawyer comes to me and hands over the brief prepared by him, I hold consultations with him and after my professional fees is deposited with my office I argue the case when the matter is called out for hearing.

12. That I am only concerned with the facts as placed/stated in the petition and if I am correct there is no means for any senior counsel to verify the same except to trust the advocate concerned/A.O.R.

13. That I am not recollecting the name of Advocate who had engaged me to argue this bail application. Further, it has not been brought into my knowledge, that what exactly is manipulation and/or what basis application for cancellation of bail is being filed.

14. That in the above situation I feel it is my duty to bring to the notice of this Hon'ble Court about the information given to me by Mr. Devendar, Advocate D.R.I, to verify the correct position and take appropriate action in this matter, if needed order granting bail may be modified and the needful may be done as the Hon'ble Court deems just and proper."

22. On the direction of this Court to disclose the source of brief and payment of professional fee, has been stated as follows in paragraph nos. 1 and 2 of the supplementary affidavit:

"1. That this affidavit is being filed in terms of direction passed by this Hon'ble court in Cri. Misc. No.22924 of 2016 (Subodh Kumar Singh and others versus The State of Bihar) on 24.6.2016 wherein the deponent was directed to file an affidavit giving details of facts about source of brief and fee paid in this case.

2. That the deponent asserts that the brief of Cri. Misc. No. 22924 of 2016 (Subodh Kumar Singh & others Versus The State of Bihar) was handed over to him by Sri Rajendra Singh @ Shashtri, Advocate (APP) of this Hon'ble Court in the court itself on 02.06.2016 and no fee was paid either before handing over the brief and/or after grant of bail till date."

23. There is apparent contradiction, in the statement of earlier affidavit and subsequent affidavit. Mr. Rajendra Singh @ Shastri has filed his affidavit gave his explanation in paragraph nos. 3, 4, 5, 6 and 7 are as follows:

"3. That it so happened that at about 8 AM on 2/06/2016 while I was at my sitting place, one person Advocate Clerk, namely, Nandu along with one another person came and informed me that the instant matter is listed before the Hon'ble Court of Mr. Justice Shivajee Pandey at serial no.4 in Daily Cause list dt. 2/6/2016 and was likely to be taken up on that day itself. The Advocate with whom the said Munshi is working had gone outside in vacation and requested me to get the instant matter argued by Sri N.K. Agrawal, Senior Advocate, Patna High Court

4. That it is stated that the deponent believed on the statement of Nandu Munshi that the concerned the Advocate is on vacation and the deponent took the said Munshi and one another, who was with him, straight to Sri N.K. Agrawal, Sr. Advocate at 9.15

on 2/06/2016 in the High Court premises itself.

5. That it is stated that the deponent not taken any fee either from Nandu Munshi, nor from the person who was with Nandu Munshi.

6. That it is stated that the deponent had not studied the brief of the instant matter and simply took them straight to the sitting place of Sri N.K. Agrawal Sr. Advocate in Patna High Court at about 9.15 AM on 2.6.2016 out of the feeling of fraternity and nothing else. The deponent met Sri N.K. Agrawal, Sr Advocate at about 9.15 on 2/06/2016.

7 That it is categorically stated that the deponent was not aware of the facts of the instant case, i.e. the instant matter till handing over the same to Sri N.K. Agrawal, the Senior Advocate."

24. In connection with Cr. Misc. No. 55151 of 2015 Mr. Raj Nandan Singh, Advocate has taken his stand in paragraph nos. 2, 3 and 4 of the affidavit are as follows:

"2. That one Chandra Deo Prasad, Advocate Clerk of Learned Advocate Dharendra Kumar Sinha sitting in Chamber No.161, Bihar Bar Council Bhawan, High Court, Patna who usually had been coming to visit my clerk Mr. Surendra Prasad as both are well known to them. The said Chandra Deo Prasad came along with a person (who is not known to me) came in my office, where my clerk Surendra Prasad was present and gave me the alleged case and only Rs.500/- saying that it has been drafted by another lawyer and it has already been typed arranged with annexures but as he does not have AOR Number, so kindly sign as "Filed through" it and put signature on Vakalatnama. I read the typed copy of bail petition and also the annexures and put my signature. He went with the file saying that he will again come as this case will be argued by any senior lawyer.

3. That it is also stated in this connection that I have not appeared in this case at any time and I have not engaged any senior lawyer in this case as he has not given any fee later on for the purpose. One day, I received message on my cell phone that the alleged case has been dismissed, who has appeared in this case and made argument, I do not know as file of this case was not available before me.

4. That it is also stated that apart from that case, Chandra Deo Prasad had also given one another drafted and typed bail petition along with annexure to put the signature on the petition and vakalatnama of Special Case No.35 of 2012 arising out of Economic Offence P.S. Case No.17/2012 and went with file saying that it will be argued by any senior lawyer. This case was numbered as Cr. Misc. No.57055 of 2015. In this case also, I have not appeared any time. But I received message on my cell phone when I was at my village home in summer vacation that same has been allowed by your Lordships on 01.06.2016, who have appeared in this case also, I do

not know."

25. Nand Kishore Singh @ Nandu (Munshi) has submitted an application on 29.6.2016, not on affidavit, in nutshell it has been stated by him that he has nothing to do with the present case. He had not given the file of present case to Rajendra Singh @ Shastri, Advocate. In one case Shastri Jee had asked him to get payment of Rs.6,000/- in a case of Jehanabad as he is a Government Advocate unless paid he would ensure his case would be rejected. When Shastri Jee could not succeed, he threatened for assault and would get him trapped in a case, on that account Shastri jee has taken his name connecting him with the present case.

A counter affidavit has been filed by Chandradeo Prasad. It will be relevant to quote paragraph nos. 8, 9 and 10 of the said affidavit:

" 8. That Sri Rajnandan Prasad having Chamber no.14 himself has got a registered clerk namely Surendra Paswan for several years working and filing briefs under him

9. That it is noteworthy that aforesaid Surendra Paswan has been living in my house as a renter for the last 1 years and has not paid the rent for the last six months and on demand of the rent he had threatened to teach lesson, hence it appears that being poked by him, an attempt is being made by Surendra Paswan and his counsel to kill two birds with one stone i.e. to save Surendra Paswan by making me scape goat for him and coercing me thereby to abandon claim for the arrears of rent due against him (Surendra Paswan)

10. That Sri Raj Nandan Prasad Advocate has not informed me on 29.6.2016 or on 30.6.2016 or subsequent thereto even though he was directed by the Hon'ble Court on 29.6.2016 to inform me, hence I could not be able to file the affidavit on 30.6.2016 but later on I learnt about the order on 1.7.2016 from Surendra Paswan.

26. On perusal of the aforesaid facts it is amply clear, the petitioners have stated wrong facts, fake and fabricated documents have been used, misleading the Court, order has been obtained. There is no doubt fraud has been played and the order of the bail has been obtained from this Court in a very illegal manner. It is well known principle of law that fraud vitiates every order which can be rectified or withdrawn at any stage so much so it has no value in the eyes of law. Primary duty of this Court is to protect stream of justice should not allow, get polluted in any manner . If pollution in system will be allowed to perpetuate citizen will loose the faith in criminal justice delivery system. The first duty of the Court is, to uphold dignity, purity and majesty of this institution. When fraud is detected it should be handled with iron hand so that it may become an example for future. If the Court does not take corrective measure, judicial system itself will collapse. It is paramount duty of this Court to protect the institution from outside onslaught. Purity of justice is the hallmark of the justice delivery system in absence of the same it will lead to anarchy and above all it is the duty of all of us to maintain purity of justice.

27. It has been held by Hon'ble Supreme Court in the case of Budhiya Swain V. Gopinath, (1999) 4 SCC 396 that if the order has been obtained by fraud or collusion the Court has power to the order recall the order. Following judgments on fraud vitiates every judicial act and orders are as follows: S.P. Chengalvaraya Naidu v. Jagannath, [(1994)1 SCC 1], A.V. Papayya Sastry v. Govt. of A.P. [(2007)4 SCC 221] and State of A.P. v. T. Suryachandra Rao [(2005) 6 SCC 149].

28. It is obligation on the part of the Court to see that the majesty of the judicial process and the purity must remain intact and such an obligation becomes more onerous when there is allegation of commission of offences pertain to public justice. It will be relevant to quote relevant portion of paragraph 21 of the judgment of the Hon'ble Supreme Court in the case of Perumal v. Janaki, reported in (2014) SCC 377:

"21..... The power of superintendence like any other power impliedly carries an obligation to exercise powers in an appropriate case to maintain the majesty of the judicial process and the purity of the legal system. Such an obligation becomes more profound when these allegations of commission of offences pertain to public justice."

29. It will be relevant to quote relevant portion of paragraph no.7 of the judgment of Hon'ble Supreme Court in the case of Patel Laljibhai Somabhai v The State of Gujarat, reported in (1971)2 SCC 376:

"7.....These offences have been selected for the court's control because of their direct impact on the judicial process. It is the judicial process, in other words the administration of public justice, which is the direct and immediate object or victim of those offence and it is only by misleading the courts and thereby perverting the due course of law and justice that the ultimate object of harming the private party is designed to be realized. As the purity of the proceedings of the court is directly sullied by the crime, the Court is considered to be the only party entitled to consider the desirability of complaining against the guilty party....."

30. In the case of Surjit Singh and others v. Balbir Singh, reported in (1996) 3 SCC 533 Hon'ble Supreme Court has held that the object thereby is to preserve purity of the administration of justice.

32. In the case of Maria Margarida Sequeira Fernandes v Erasmo Jack De Sequeira (dead) through Lrs, reported in (2012) 5 SCC 370 the Hon'ble Supreme Court has held that the entire judicial system has been created only to discern and find out the real truth and Judges at all levels have to seriously engage themselves in the journey of discovering the truth. That is their mandate, obligation and bounden duty of the Court. Justice system will acquire credibility only when people will be convinced that justice is based on the foundation of the truth. The Court has to always keep in mind that "every trial is voyage of discovery, in which truth is the quest".

33. In the journey of discovery of truth, it is the duty of Court to take appropriate step that no one should derive undue benefit or advantage by abusing the process of law A Shanmugam v. Ariya Kshatriya Rakula, (AIR 2012 SC 2010=(2012)6 SCC 430.

34. In the case of Ritesh Tewari v. State of U.P., reported in (2010) 10 SCC 677 has held that every trial is voyage of discovery in which truth is the quest.

35. The Court has to ensure that accused persons are punished. The basic purpose of an investigation is to bring out the truth by conducting fair and proper investigation in accordance with law and to ensure that the guilty are punished. The jurisdiction of a court to ensure fair and proper investigation in an adversarial system of criminal administration is of a higher degree than in an inquisitorial system and it has to take precaution that interested or influential persons are not able to misdirect or hijack the investigation, so as to throttle a fair investigation resulting in the offenders escaping the punitive course of law. Successful investigations are based on fidelity, accuracy and sincerity in lawfully searching for the true facts of an event under investigation and on an equal faithfulness, exactness and probity in reporting the results of an investigation. Reliance can be placed on the judgment of the Hon'ble Supreme Court in the case of Pooja Pal V. Union of India and others, reported in 2016(2) PLJR 378 SC.

36. Two things are amply clear, a syndicate has been formed which is working very effectively in getting the order from this Court in fraudulent manners, so much so they are creating document in their own manner and place, and are using the same for the purposes of obtaining order applying wrong manner and method filing of the case. This requires, the same should be handled with iron hand.

37. In view of the aforesaid fact, this Court passes the following orders:

(i) Looking to the entire facts and circumstances, this Court directs that the order dated 2.6.2016 passed in Cr. Misc. No.22924 of 2016 is recalled and the court below is directed to cancel the bail bonds of all the three petitioners forthwith. Issue non-bailable warrant of arrest against them and petitioners are directed to immediately surrender in the court below. In case of their failure the court below would take all possible coercive steps to ensure their recovery and bring to them in the judicial custody. The Superintendent of Police, Vaishali, Sub Divisional Police Officer, Vaishali, Inspector of Police-cum-S.H.O., Desri at Vaishali are directed to take all possible steps immediately for arrest of Subodh Kumar Singh and produced him before the Court conducting Special Case No.13 of 2015.

(ii) Similarly with respect to Nawal Kumar Sahni, son of late Tulsi Salmi @ Sahni and Noor Alam, son of Sri Gaffar Alam, this Court directs Sr. Superintendent of Police, District Karbi Anglong Assam, Sr. Superintendent of Police, district Dhubri, Assam, Inspector of Police, Bokajan Diphu police station and Inspector of Police, Aagomani, District Dhubri, Assam to arrest them and take all possible steps to ensure their arrest and produced them before the court conducting Special Case No.13 of 2015.

(iii) The Registrar (Vigilance) is directed to lodge a criminal case without any delay before Central Bureau of Investigation, Patna and Central Bureau of Investigation is directed to investigate the case and whosoever may be found involved, should be

brought to the book.

Central Bureau of investigation is further directed to submit progress report in a sealed cover for perusal of the Court after three months. The Central Bureau of Investigation is directed to make investigation in time frame and would examine the matter in larger conspiracy angle.

(iv) The Registry is directed to suspend AOR No. 4609 of Mr. Ran Vijay Kumar Singh till further orders. The present matter of Mr. Ran Vijay Kumar Singh is referred to Bihar State Bar Council to initiate a proceeding for the misconduct committed by him and submit the report within three months.

(v) As it is apparently clear that system of AOR has been introduced 7-8 years earlier, the lawyers who are working in Patna High Court, Civil Court, Patna City Court, Patna City and Advocates are working in Danapur were allowed to become AOR and on their applications Registry prepared the list of AOR but it seems that the same has not been up-dated or verified as to whether the Advocates who were enrolled as AOR are still in practice, as in course of time some Advocates might have left the practice, certain Advocates might have died during in course of time but their names are still standing in the list of the AOR which requires verification and its updating. This Court directs the Registry that a proper notice should be published in the list, asking all Advocate-On-Record (AOR) must file an affidavit giving declaration therein that he/she is inactive practice along with specimen signature and photograph, update the list of the AOR. Notice should be published consecutively for a week so that proper information be disseminated to avoid future complaint of AOR. If the affidavit along with specimen signature and photograph are not filed within 30 days from the last date of publication of notice, their names and AOR should be blocked and the same will be released subject to compliance and only after proper verification by the Registry. While updating the AOR, the Registry will remain vigilant and make proper verification of the affidavit filed by the AOR. The Registry will update the list of AOR regularly seeking declaration on affidavit by month of March every year.

(vi) The cases are filed through the Registered Advocate Clerks and they have also been granted licence. Identical notice be issued to them and they should also file an affidavit along with specimen signature with their photographs.

(vii) The photographs of the Advocate along with their signature should be digitalized and it should be pasted against their names so that whenever an application is filed the signature of AOR would be verified from the records maintained by the Registry, at the time of stamp reporting. Same process would be applicable to Registered Advocate Clerk.

(viii) Whenever cases are filed and defects are pointed out Registry is not obliged to return the file and whatever the defects are there that would be removed under the coverage of CCTV, recurrence of such malady in future would be prevented. In case of any amendment in Patna High Court Rule, the present direction would be subject to amendments.

(ix) The Registrar (Vigilance) is directed to hand over the authenticated photo copy of Cr. Misc. No. 22924 of 2016 including the affidavits filed by the parties including petition of Nand Kishore Singh, (Advocate Clerk), Chandradeo Prasad, (Advocate Clerk) and the report submitted by the District & Sessions Judge, Patna dated 25.6.2016, records of Cr. Misc. No.55151 of 2015 and the affidavit filed by Mr. Raj Nandan Singh, Advocate, records of Cr. Misc. No.26178 of 2016 including supplementary affidavit filed by Mr. N.K. Agrawal, Sr. Advocate including orders passed by this Court to the Central Bureau of Investigation. The Registrar (Vigilance) is also directed to hand over the authenticated photo copy of original records of the court below which has been kept in the file.

(x) This Court directs the Registry to ensure that whenever there is an affidavit of Petition, Appeal, Revision, Writ, Modification, MJC, Interlocutory Application, counter affidavit or any affidavit, the deponent must bring some identity cards such as Election Identity Card, Pan Card, Adhar Card or Driving Licence and affidavit should be done at the coverage of CCTV. The photo copy of the identity cards whichever is the basis of identification of the witness should be attached with the affidavit.

38. Let these cases be listed after three months under the same heading.

39. Let this order be communicated to the D.G.P. Bihar, Patna and D.G.P. Dispur (Guwahati) forthwith.

Vinay/-

(Shivaji Pandey, J)

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