

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5961 of 2019

Arising Out of PS. Case No.-741 Year-2017 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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1. Md. Kaish @ Mu. Kaish, S/o Syed Zafar Imam,
 2. Syed Zafar Imam S/o Late Syed Tabarak Hussain
 3. Akhtari Khatoon @ Munni W/o Syed Zafar Imam
- All are Resident of Village-Mansa Tola, Bettiah, P.S.- Bettiah (Muf.)

... .. Petitioners

Versus

1. The State of Bihar
2. Md. Tabrej Alam, S/o Late Md. Reyaz, R/o Village- Mansa Tola, Bettiah, P.S.-Bettiah (Muf.)

... .. Opposite Parties

with
CRIMINAL MISCELLANEOUS No. 38974 of 2021

Arising Out of PS. Case No.-741 Year-2017 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

Dr. Tabrez Aziz, Son of Late Dr. Azizur Rahman Medical Officer Cum Proprietor- Rahmania Medical Centre Pvt. Ltd., N.H. -28, 13, P.S. - Chatauni, Distt.- Motihari, East Champaran, Bihar.

... .. Petitioner

Versus

1. The State of Bihar
2. Md. Tabrej Alam, S/o Late Md. Reyaz, R/o Mohalla - Mansa Tola, P.S. - Bettiah Mufassil, District - West Champaran, Bihar.

... .. Opposite Parties

Appearance :

(In CRIMINAL MISCELLANEOUS No. 5961 of 2019)

For the Petitioner/s : Mr. Akhileshwar Kumar Shrivastva, Adv.

For the OP no.2 : Mr. Manaur Alam, Adv.

For the Opposite Party/s : Mr. Mukeshwar Dayal, APP

(In CRIMINAL MISCELLANEOUS No. 38974 of 2021)

For the Petitioner/s : Mr. Bipin Bihari, Adv.

For the Opposite Party/s : Mr. A.G.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 17-08-2026

1. Heard the parties.



2. The present application has been filed for quashing the order dated 16.05.2018 passed by the learned Chief Judicial Magistrate, Bettiah, West Champaran, in Complaint Case No. 741C of 2017, whereby cognizance has been taken against the petitioners and other accused persons for offences under Sections 420, 467, 471 and 120-B of the Indian Penal Code.

3. The complaint was instituted by Opposite Party No. 2 alleging, essentially, that the accused persons, in conspiracy with certain police and medical officials, had deliberately fabricated Bettiah Nagar P.S. Case No. 719 of 2015 in order to pressurise the complainant and his family members to compromise earlier criminal cases. Allegations have also been made regarding preparation of a false injury report, ante-dating of the fardbeyan and illegal investigation of the said police case.

4. The background in which the complaint came to be instituted is material. Bettiah Nagar P.S. Case No. 719 of 2015 was instituted against Opposite Party No. 2 and his two brothers alleging an occurrence dated 25.10.2015. After



investigation, charge-sheet was submitted and cognizance was taken. The matter ultimately proceeded to trial and, as stated by the petitioners, two of the brothers of Opposite Party No. 2 were convicted by the learned Sessions Court, whereas OP No.2 was acquitted.

5. The complaint in question was thereafter filed alleging that the aforesaid police case was fabricated and that as many as 22 persons, including the petitioners, had conspired to create a false case. The learned Magistrate, after conducting an inquiry under Section 202 of Cr.P.C., proceeded to take cognizance of the offences.

6. The principal question before this Court is whether, on a consideration of the allegations in the complaint and the materials relied upon by the complainant, continuation of the criminal proceeding against the petitioners would amount to an abuse of the process of the Court.

7. The jurisdiction under Section 482 of Cr.P.C. is undoubtedly extraordinary and is to be exercised sparingly. At the same time, the provision exists to prevent



abuse of the process of any Court and to secure the ends of justice. The principles laid down in ***State of Haryana v. Bhajan Lal*** reported in ***1992 Supp (1) SCC 335*** remain the guiding principles in this regard. The Hon'ble Supreme Court has repeatedly held that where the allegations, even if taken at their face value, do not constitute the offences alleged, or where the proceeding is manifestly attended with malafide and has been instituted with an ulterior motive, the High Court would be justified in quashing the same. Reliance be placed to the legal ratio held in ***Naresh Aneja@ Naresh Kumar Aneja versus State of U.P. [(2025) 2 SCC 604]***.

8. It would be apposite to reproduce the relevant paragraph nos. 31 to 33 of ***Naresh Aneja Case (supra)*** which reads as under:-

"31. This Court has on numerous occasions considered the power of the High Courts to quash criminal proceedings under Section 482CrPC. The scope thereof, therefore, does not require us to devote substantive portions of this judgment thereto. Only for the purposes of immediate reference, we take notice of a few pronouncements in this regard, other than *State of Haryana v. Bhajan Lal* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] , which is recognised as the locus classicus on the issue.

32. This Court's judgment in *Indian Oil*



Corpn. v. NEPC India Ltd. [Indian Oil Corpn. v. NEPC India Ltd., (2006) 6 SCC 736 : (2006) 3 SCC (Cri) 188] culled out the following principles : (SCC p. 748, para 12)

"12. ... (i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out : (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceeding are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal



offence or not."

33. The scope of this power is best remembered in the words of Y.V. Chandrachud, J. (as his Lordship then was) writing for the Court in State of Karnataka v. L. Muniswamy [State of Karnataka v. L. Muniswamy, (1977) 2 SCC 699 : 1977 SCC (Cri) 404] wherein it was observed : (SCC p. 703, para 7)

"7. In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction."

9. It is equally well settled that, at the stage of considering a petition under Section 482 of Cr.P.C., the High Court ordinarily does not undertake a meticulous appreciation of evidence or determine the truthfulness of disputed allegations. However, where the admitted or unimpeachable circumstances placed before the Court demonstrate that the criminal proceeding is being employed



for an ulterior purpose or that its continuation would serve no legitimate purpose, the inherent jurisdiction can and ought to be exercised. The Hon'ble Supreme Court has recently reiterated that protection against vexatious and unwarranted criminal prosecution is an important facet of the High Court's jurisdiction under Section 482 of Cr.P.C. Reliance be placed to the legal ratio held in ***Marippan and Anr. versus State [2025 SCC OnLine SC 364]***.

10. It would be apposite to reproduce the relevant paragraph no.11 of ***Marippan Case (supra)*** which reads as under:-

"11. In *Vishnu Kumar Shukla v. State of Uttar Pradesh*, (2023) 15 SCC 502, the Court stated:

"22. On a careful conspectus of the legal spectrum, juxtaposed with our view on the facts and merits expressed hereinbefore, we are satisfied that there is no suspicion, much less strong or grave suspicion that the appellants are guilty of the offence alleged. It would be unjustified to make the appellants face a full-fledged criminal trial in this backdrop. In an appeal dealing with the refusal of the High Court to quash an FIR under Section 482CrPC albeit, this Court, while setting aside the judgment [*Pushpendra Mishra v. State of M.P.*, 2019 SCC OnLine MP 7164] impugned therein and quashing that FIR, took the view that: (*Priyanka Mishra case [Priyanka Mishra v. State of M.P.*, (2023) 15 SCC 480], SCC para 24)

'24. ... the Appellants are to be protected against vexatious and unwarranted criminal prosecution, and from unnecessarily being put



through the rigours of an eventual trial.’
[Priyanka Mishra v. State of M.P., (2023) 15
SCC 480]

The protection against vexatious and unwanted prosecution and from being unnecessarily dragged through a trial by melting a criminal proceeding into oblivion, either through quashing an FIR/complaint or by allowing an appeal against an order rejecting discharge or by any other legally permissible route, as the circumstances may be, in the deserving case, is a duty cast on the High Courts. The High Court should have intervened and discharged the appellants. But this Court will intervene, being the sentinel on the qui vive.”

11. In the present case, the complaint has to be examined against the background of the earlier litigation. The very foundation of the complaint is the allegation that Bettiah Nagar P.S. Case No. 719 of 2015 was fabricated. However, the said case was investigated, charge-sheet was submitted and cognizance was taken. More importantly, the case proceeded to trial and resulted in conviction of two of the persons against whom the original prosecution had been launched. Thus, the present complaint seeks, in substance, to question the correctness and bonafides of the investigation and prosecution in an earlier criminal proceeding through a fresh criminal case against the persons associated with that proceeding, which is something alien to criminal jurisprudence. If OP No.2 was aggrieved by any



aspect of the proceedings or the evidence adduced during trial, he had every opportunity to raise such grievance before the appellate court. It is a settled principle of law that an appeal is a continuation of trial, as held by the Hon'ble Supreme Court in ***Vishnu Kumar Gupta v. State of Madhya Pradesh*** reported in ***2026 SCC OnLine SC 1443***. Having failed to avail such remedy, the institution of a fresh complaint, arraying as an accused the very witnesses, the I.O. and the Medical Officer, whose evidence had already been recorded and tested during the trial by way of cross-examination on behalf of OP No.2, cannot, by any stretch of judicial or prudent reasoning, be entertained. Such a course would, in substance, amount to reopening and re-litigating issues which have already been duly examined in the course of trial, and therefore, the institution of fresh complaint on the same set of facts and evidence is wholly impermissible and cannot be appreciated at any cost.

12. It would be apposite to reproduce the para no. 38.1 of ***Vishnu Kumar Gupta Case (supra)*** which reads as under:-



"38.1. The first proposition is that an appeal is a continuation of the trial or the original proceedings. This principle is well settled in criminal jurisprudence and has repeatedly been affirmed by this Court. It signifies that the judgment of the Trial Court does not attain finality during the pendency of the appeal; that the appellate court is empowered to reappreciate the evidence; and that, upon the disposal of the appeal, the judgment of the appellate court supersedes or merges with that of the Trial Court. These consequences flow from the doctrine of continuity of proceedings and assume relevance in diverse contexts, including the doctrine of merger, suspension of sentence, limitation, and the scope of appellate powers."

13. The materials referred to by the complainant themselves disclose that the principal grievance arose out of the investigation and subsequent proceedings in Bettiah Nagar P.S. Case No. 719 of 2015. The complaint relies upon documents obtained under the Right to Information Act, the alleged discrepancies in the dates of occurrence, the injury report and the subsequent orders passed by the superior criminal courts. These matters had already been brought before the competent criminal courts in the proceedings arising out of the said police case.

14. The order dated 26.10.2016 passed by the learned Chief Judicial Magistrate, whereby the sections in the earlier police case were altered, was challenged before the revisional Court as well as before this Court. In Criminal



Miscellaneous No. 1018 of 2017, this Court called for an explanation from the learned Chief Judicial Magistrate and thereafter referred the matter to the Standing Committee. However, these circumstances, by themselves, do not establish that the petitioners committed the offences alleged in the present complaint.

15. The complaint further alleges that the medical officer had issued a false injury report and that police officials had acted illegally. If the allegations against such officials are to be pursued, the same must necessarily rest upon specific acts constituting the ingredients of the offences alleged. A criminal proceeding cannot be permitted to continue merely because the complainant is dissatisfied with the investigation or with an order passed in the earlier criminal case.

16. This Court is also conscious of the fact that Opposite Party No. 2 was himself an accused in Bettiah Nagar P.S. Case No. 719 of 2015 and that two of his brothers were subsequently convicted. The present complaint was filed after the investigation and prosecution in that case



had substantially progressed. The chronology of events, therefore, lends considerable support to the submission of the petitioners that the complaint is a retaliatory proceeding arising out of the earlier criminal litigation.

17. The Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal*** reported in ***1992 Supp (1) SCC 335*** has specifically recognised a category of cases where criminal proceedings are manifestly attended with malafide and/or instituted maliciously with an ulterior motive for wreaking vengeance on the accused. Recently, the Hon'ble Supreme Court in ***Anukul Singh versus State of U.P. and Anr. [2025 SCC OnLine SC 2060]*** has reiterated that where the criminal proceeding is a retaliatory measure or is instituted with an ulterior motive, continuation of such proceeding would amount to an abuse of the process of law.

18. It would be apposite to reproduce the relevant paragraph nos. 11.1 and 18 of ***Anukul Singh Case (supra)*** which reads as under:-

"11.1. This Court in *State of Haryana v. Bhajan Lal*, at paragraph 102, laid down illustrative categories where quashing of proceedings is justified. These are:

"(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 information 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 any 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 person 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 Act concerned (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 Act concerned, 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."*

The categories in Bhajan Lal are illustrative and not exhaustive, but they provide guiding principles to balance two competing considerations - (a) preventing abuse of process of law, and (b) ensuring that



criminal proceedings are not stifled at the threshold on disputed questions of fact.

18. *Similarly, in Inder Mohan Goswami v. State of Uttaranchal(2007) 12 SCC 1, it was emphasized that criminal prosecution must not be permitted as an instrument of harassment or private vendetta. In Ganga Dhar Kalita v. State of Assam, this Court again reiterated that criminal complaints in respect of property disputes of civil nature, filed solely to harass the accused or to exert pressure in civil litigation, constitute an abuse of process."*

19. The present case falls within the aforesaid principles. The complaint is not merely an independent allegation of commission of forgery or cheating. Its entire foundation is the assertion that the earlier criminal case was false and had been engineered by the accused persons. The allegations, even when taken at their face value, do not disclose the necessary factual foundation for the offences under Sections 420, 467 and 471 of the IPC against the petitioners in their individual capacity. The allegation of conspiracy is also not supported by specific particulars demonstrating the requisite meeting of minds.

20. This Court is not oblivious of the principle that the power under Section 482 of Cr.P.C. should not be exercised to conduct a mini-trial. But this is not a case where the Court is required to decide disputed questions of fact



after weighing the evidence. The very nature of the complaint, the chronology of the proceedings and the absence of specific foundational allegations constituting the offences are sufficient to conclude that compelling the petitioners to undergo a full-fledged criminal trial would serve no legitimate purpose.

21. Criminal law cannot be permitted to become an instrument for settling scores arising out of previous criminal litigation. The Supreme Court has emphasized that the High Court has a duty to intervene in appropriate cases to protect persons from vexatious and unwarranted criminal prosecution and to prevent the criminal process from being converted into an instrument of harassment.

22. The Court is, therefore, of the considered view that the present complaint represents an attempt to give a criminal colour to grievances arising out of the earlier prosecution and investigation. The allegations against the petitioners are insufficient to constitute the offences for which cognizance has been taken and continuation of the proceeding would amount to an abuse of the process of the



Court.

23. Before parting with the matter, this Court considers it necessary to observe that the institution of a complaint arraigning as accused a large number of persons, including police and medical officials, on substantially omnibus allegations, without laying the necessary factual foundation for the offences alleged, cannot be encouraged. The criminal process is a serious matter and cannot be permitted to be used as a weapon for retaliation or harassment as it would not only amount to an abuse of process of law, but would also have the effect of opening a pandora's box, thereby permitting the criminal process to be invoked in circumstances whether allegations do not warrant its continuance.

24. In the circumstances, this Court is satisfied that the present case falls within the parameters of the inherent jurisdiction under Section 482 of Cr.P.C. The impugned order dated 16.05.2018 passed by the learned Chief Judicial Magistrate, Bettiah, West Champaran, in Complaint Case No. 741C of 2017, insofar as it relates to



the petitioners, is accordingly set aside. The entire criminal proceeding arising out of the said complaint, including the order taking cognizance against the petitioners, is hereby quashed/set aside.

25. Considering the circumstances in which the complaint was instituted and the nature of the allegations made therein, this Court is of the view that imposition of costs is warranted to discourage misuse of the criminal process, as it will amount to questioning the outcome of a criminal trial. Accordingly, Opposite Party No. 2 shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh) with the District Legal Services Authority, West Champaran, Bettiah, within a period of six weeks from the date of receipt/production of a copy of this judgment.

26. In case of failure to deposit the aforesaid amount within the stipulated period, the District Magistrate, West Champaran, Bettiah, shall take steps for recovery of the said amount in accordance with law as arrears of land revenue and ensure its deposit with the District Legal Services Authority.



27. The amount so deposited shall be utilised by the District Legal Services Authority for the purposes of legal aid and access to justice in accordance with law.

28. The application stands allowed in the aforesaid terms.

29. Let the copy of judgment be communicated to the learned trial court forthwith, with TCR, if any.

(Chandra Shekhar Jha, J.)

Raushan/-

AFR/NAFR	AFR
CAV DATE	N/A
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