

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49361 of 2021

Arising Out of PS. Case No.-578 Year-2020 Thana- PATNA COMPLAINT CASE District-
Patna

Subhash Ranjan Sinha S/o Bisheswar Prasad Sinha Previously posted at Muzaffarpur Divisional Office of Indian Oil Corporation Ltd. at Krishna Comlex, Akhara Ghat, P.S.- Town, District- Muzaffarpur and presently posted as DGM (Lubes-Reseller Sales) in the Lubes Deptt. of the Bihar State Office of Indian Oil Corporation Ltd. at 3rd Floor, Abhaya Bhawan, Frazer Road, P.S.- Kotwali, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kaushalya Devi W/o Bishwanath Prasad R/o Salimpurahra Lane, behind RBI Kadamkuan, P.S.- Gandhi Maidan, District- Patna.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 49507 of 2021

Arising Out of PS. Case No.-578 Year-2020 Thana- PATNA COMPLAINT CASE District-
Patna

Rajeev Vishwash @ Rajib Biswas S/O Late Shyamal Biswas Previously posted at Muzaffarpur Divisional Office of India Oil Corporation Ltd. at Krishna Complex, Akhara Ghat, P.S. Town, Distt.- Muzaffarpur and Presently posted as Divisional Retail Sales Head F at the Siliguri Divisional office under West Bengal State Office at Indian Oil Bhawan, SJDA Pariwahan Nagar, P.S.- Matigara, Distt.- Darjeeling, West Bengal

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kaushalya Devi W/O Bishwanath Prasad Resident of Salimpurahra Lane, behind RBI Kadamkuan, P.S.- Gandhi Maidan, District- Patna

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 49361 of 2021)

For the Petitioner/s	:	Mr. Anil Kumar Jha, Sr, Adv
	:	Mr. Sanat Kumar Mishra, Adv
	:	Mr. Anand Tiwari, Adv
	:	Mr. Shantam Kriti, Adv
For the Opposite Party/s	:	Mr. Jharkhandi Upadhyay, APP
For the OP No. 2	:	Mr. Ramchandra Singh, Adv
	:	Mr. Kishore Kumar Prasad, Adv

(In CRIMINAL MISCELLANEOUS No. 49507 of 2021)

For the Petitioner/s	:	Mr. Anil Kumar Jha, Sr, Adv
	:	Mr. Sanat Kumar Mishra, Adv
	:	Mr. Anand Tiwari, Adv
	:	Mr. Shantam Kriti, Adv
For the Opposite Party/s	:	Mr. Jharkhandi Upadhyay, APP
For the OP No. 2	:	Mr. Ramchandra Singh, Adv



: Mr. Kishore Kumar Prasad, Adv

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 17-08-2026

Heard the parties.

2. The present quashing petition has been preferred to quash the order dated 27.03.2021 as passed in Complaint Case No. 578C/2021, where learned Judicial Magistrate, 1st Class Patna took cognizance for the offences punishable under Sections 467, 468 and 120B of the IPC against the petitioners.

3. The complaint in issue was filed by the complainant against her own brother, Jawahar Pradhan (accused no. 1), his son Ranjan Kumar Pradhan @ Vicky, and four senior officials of Indian Oil Corporation Limited (Marketing Division), including the present petitioners. The complainant alleges that erstwhile IBP Co. Ltd. invited applications on 06.08.2003 for establishment of a Retail Outlet at Benepatti, for which ownership/availability of land was a crucial eligibility criteria. Complainant alleges that as she did not possess the requisite land at the relevant time, therefore, withdrawn her candidature, whereafter her brother, in connivance with the company officials, allegedly used forged documents and affidavits bearing her signatures to secure a Letter of Intent dated 12.02.2004 in his favour as her nominated candidate. It is further alleged that accused subsequently obtained the requisite NOC and other permissions and complainant was induced to execute a registered



Lease Deed dated 09.10.2007 for a nominal annual rent of Rs.500/- without being fully informed of its contents and implications. The complainant further relies upon information obtained under the RTI Act, alleging that only two persons had originally applied for the Retail Outlet and accused no. 1 was subsequently received an intent letter as complainant's nominated candidate, while her land was evaluated on 11.12.2003. On this basis, she alleges collusion between her brother and the officials of the erstwhile IBP Co. Ltd. and contends that false and fabricated documents were relied upon by the authorities while defending the accused. The complainant, subsequently approached the General Manager, Retail Sales, through letter dated 04.09.2019, detailing the alleged irregularities and drawing attention to Clause 10(a) of the Letter of Intent (LOI), which provided for cancellation of the LOI in case of suppression or misrepresentation of material facts. According to the complainant, despite the alleged suppression and misrepresentation, the Company failed to take any corrective action against the accused persons.

4. Mr. Anil Kr. Jha, learned senior counsel appearing on behalf of petitioners submitted that from the perusal of complaint case no cognizable case as alleged appears to be made out against the petitioners, who are the officers of the IOCL. It is submitted that admittedly the advertisement was brought by IBP Company Ltd., in year 2003, and the selection process was also completed by IBP Company. It also appears from the annexure no. 3 & 4 of the



complainant petition that the required NOC from the DM and explosive licence from PESO, were applied and obtained by IBP Company. It is further submitted that said IBP Company was merged with IOCL under the scheme of amalgamation *qua* merging of IBP Company with IOCL from 02.05.2007.

5. It is further argued that four officers of IOCL including these petitioners, who were arrayed as an accused in the complaint petition had no any role in preparing, manufacturing of any forged document and nor in the selection of accused no. 1 namely Jawahar Pradhan, who is the own brother of the complainant. It is submitted that when certain accounting related disputes surfaced between the complainant and his brother (accused no. 1) after availing the benefit for long ten years from the petrol pump, she started to made complaint since 2017 against accused no. 1, where for no reason these petitioners being official of IOCL were arrayed as accused. It is submitted that just to create pressure the accusations were made without having any cogent materials under the garb of general and superficial allegation of conspiracy. It is submitted that the person cannot be put on criminal trial in mechanical and routine manner, in support of his submissions learned senior counsel relied upon the report of Hon'ble Supreme Court as available through **Pepsi Foods Ltd. And Another Vs. Special Judicial Magistrate and Others, [(1998) 5 SCC 749]**.

6. It is further submitted out of averments as set out



through complaint dealing with factual aspects of the allegation that being IOCL officers, no criminal case/liability is made out against these petitioners and, therefore, impugned cognizance order is fit be quashed/set aside, in view of legal report of Hon'ble Supreme Court as available through **Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and Others, [(2021) 19 SCC 401]**. While travelling over the argument, it is submitted that the complaint was filed in the year 2020 and upon vigilance enquiry on the basis of complaint, which was earlier made by the complainant, the license of the petrol pump issued in favour of complainant was cancelled as her signature was found forged upon FSL examination by IOCL. It is submitted that accused no. 1, thereafter approached the High Court, where the cancellation order of the IOCL was stayed against which the petitioner/company namely IOCL approached Hon'ble Supreme Court through Special Leave to Appeal No. 11244/2022, which was dismissed with a direction/liberty to the IOCL to approach before the Division Bench of this Court, which is still pending. It is submitted that in view of all such litigation still the petrol pump is operated by accused no. 1 Jawahar Pradhan, who is brother of the complainant.

7. Learned APP duly assisted by learned counsel appearing on behalf of informant/O.P. No. 2, while opposing the petition submitted that the signature of complainant was found forged upon FSL examination and, therefore, involvement of these petitioners being IOCL employee cannot be ruled out. It is submitted



that cognizance order is reasoned order and at this stage probative value of the evidence cannot be ascertained as per settled principle of law. In support of the submissions learned counsel relied upon the report of Hon'ble Supreme Court as available through **Vijay Dhanuka and Others Vs. Najima Mamtaj and Others, [(2014) 14 SCC 638]**.

8. It would be apposite to reproduce the para no(s). 128 and 29 of the **Pepsi Foods Ltd. Case (supra)** which reads as under:

28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.

29. No doubt the Magistrate can discharge the accused at any stage of the trial if he considers the charge to be groundless, but that does not mean that the accused cannot approach the High Court under Section 482 of the Code or Article 227 of the Constitution to have the proceeding quashed against him when the complaint does not make out any case against him and still he must undergo the agony of a criminal trial. It was submitted before us on behalf of the State that in case we find that the High Court failed to exercise its jurisdiction the matter should be remanded back to it to consider if the complaint and the evidence on record did not make out any case against the appellants. If, however, we refer to the impugned judgment of the High Court it has come to the conclusion, though without referring to any material on record, that "in the present case it cannot be said at this stage that the allegations in the complaint are so absurd and inherently improbable on the



basis of which no prudent man can ever reach a just conclusion that there exists no sufficient ground for proceedings against the accused”. We do not think that the High Court was correct in coming to such a conclusion and in coming to that it has also foreclosed the matter for the Magistrate as well, as the Magistrate will not give any different conclusion on an application filed under Section 245 of the Code. The High Court says that the appellants could very well appear before the court and move an application under Section 245(2) of the Code and that the Magistrate could discharge them if he found the charge to be groundless and at the same time it has itself returned the finding that there are sufficient grounds for proceeding against the appellants. If we now refer to the facts of the case before us it is clear to us that not only that allegation against the appellants do not make out any case for an offence under Section 7 of the Act and also that there is no basis for the complainant to make such allegations. The allegations in the complaint merely show that the appellants have given their brand name to “Residency Foods and Beverages Ltd.” for bottling the beverage “Lehar Pepsi”. The complaint does not show what is the role of the appellants in the manufacture of the beverage which is said to be adulterated. The only allegation is that the appellants are the manufacturers of bottle. There is no averment as to how the complainant could say so and also if the appellants manufactured the alleged bottle or its contents. His sole information is from A.K. Jain who is impleaded as Accused 3. The preliminary evidence on which the first respondent relied in issuing summons to the appellants also does not show as to how it could be said that the appellants are manufacturers of either the bottle or the beverage or both. There is another aspect of the matter. The Central Government in the exercise of their powers under Section 3 of the Essential Commodities Act, 1955 made the Fruit Products Order, 1955 (for short “the Fruit Order”). It is not disputed that the beverage in question is a “fruit product” within the meaning of clause (2)(b) of the Fruit Order and that for the manufacture thereof certain licence is required. The Fruit Order defines the manufacturer and also sets out as to what the manufacturer is required to do in regard to the packaging, marking and labelling of containers of fruit products. One of such requirements is that when a bottle is used in packing any fruit products, it shall be so sealed that it cannot be opened without destroying the licence number and the special identification mark of the manufacturer to be displayed on the top or neck of the bottle. The licence number of the manufacturer shall also be exhibited prominently on the side label on such bottle [clause (8)(1)(b)]. Admittedly, the name of the first appellant is not mentioned as a manufacturer on the top cap of the bottle. It is not necessary to refer in detail to other requirements of the Fruit Order and the consequences of infringement of the Order and to the penalty to which the manufacturer would be exposed under the provisions of the Essential



Commodities Act, 1955. We may, however, note that in *Hamdard Dawakhana (Wakf) v. Union of India* [AIR 1965 SC 1167 : (1965) 2 SCR 192] an argument was raised that the Fruit Order was invalid because its provision indicated that it was an Order which could have been appropriately issued under the Prevention of Food Adulteration Act, 1954. This Court negated this plea and said that the Fruit Order was validly issued under the Essential Commodities Act. What we find in the present case is that there was nothing on record to show if the appellants held the licence for the manufacture of the offending beverage and if, as noted above, the first appellant was the manufacturer thereof.

9. It would be apposite to reproduce the para no(s).

10.3 and 10.4 of the **Neeharika Infrastructure Pvt. Ltd. Case (supra)** which reads as under:

10.3. Then comes the celebrated decision of this Court in *Bhajan Lal* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] . In the said decision, this Court considered in detail the scope of the High Court powers under Section 482CrPC and/or Article 226 of the Constitution of India to quash the FIR and referred to several judicial precedents and held that the High Court should not embark upon an inquiry into the merits and demerits of the allegations and quash the proceedings without allowing the investigating agency to complete its task. At the same time, this Court identified the following cases in which FIR/complaint can be quashed:

“102. (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 fides 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.”

10.4. In *Golconda Linga Swamy* [*State of A.P. v. Golconda Linga Swamy*, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , after considering the decisions of this Court in *R.P. Kapur* [*R.P. Kapur v. State of Punjab*, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] and *Bhajan Lal* [*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and other decisions on the exercise of inherent powers by the High Court under Section 482CrPC, in paras 5, 7 and 8, it is observed and held as under : (*Golconda Linga Swamy case* [*State of A.P. v. Golconda Linga Swamy*, (2004) 6 SCC 522 : 2004 SCC (Cri) 1805] , SCC pp. 526-29)

“5. Exercise of power under Section 482 of the Code in a case of this nature is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely : (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognises and preserves inherent powers of the High Courts. All courts, whether civil or criminal, possess in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle *quando lex aliquid aliique concedit, conceditur et id sine quo res ipsa esse non potest* (when the law gives a person



anything, it gives him that without which it cannot exist). While exercising powers under the section, the Court does not function as a court of appeal or revision. Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised *ex debito justitiae* to do real and substantial justice for the administration of which alone courts exist. Authority of the Court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the Court has power to prevent such abuse. It would be an abuse of the process of the Court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the Court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.

7. In dealing with the last category, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process, no doubt should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. ...

8. As noted above, the powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced



before the court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. [See *Janata Dal v. H.S. Chowdhary* [*Janata Dal v. H.S. Chowdhary*, (1992) 4 SCC 305 : 1993 SCC (Cri) 36] and *Raghubir Saran v. State of Bihar* [*Raghubir Saran v. State of Bihar*, 1963 SCC OnLine SC 102 : AIR 1964 SC 1] .] It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises, arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. In a proceeding instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognisance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers under Section 482 of the Code. It is not, however, necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal. The complaint/FIR has to be read as a whole. If it appears that on consideration of the allegations in the light of the statement made on oath of the complainant or disclosed in the FIR that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint/FIR is mala fide, frivolous or vexatious, in that event there would be no justification for interference by the High Court. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceeding.”

10. It would be apposite to reproduce the para no(s). 10

to 14 of the **Vijay Dhanuka Case (supra)** which reads as under:

10. However, in a case in which the accused is residing at a place beyond the area in which the Magistrate exercises his jurisdiction whether it would be mandatory to hold inquiry or the investigation as he thinks fit for the purpose of deciding whether or not there is sufficient ground for proceeding, is the question which needs our determination. In this connection, it is apt to refer to Section 202 of the Code which provides for postponement of issue of process. The same



reads as follows:

“202. Postponement of issue of process.—(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under Section 192, may, if he thinks fit, and shall, *in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction, postpone* the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding:

Provided that no such direction for investigation shall be made— (a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or (b) where the complaint has not been made by a court, unless the complainant and the witnesses present (if any) have been examined on oath under Section 200. (2) In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath:

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath. (3) If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Code on an officer in charge of a police station except the power to arrest without warrant.”

11. Section 202 of the Code, inter alia, contemplates postponement of the issue of the process “in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction” and thereafter to either inquire into the case by himself or direct an investigation to be made by a police officer or by such other person as he thinks fit. In the face of it, what needs our determination is as to whether in a case where the accused is residing at a place beyond the area in which the Magistrate exercises his jurisdiction, inquiry is mandatory or not.

12. The words “and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction” were inserted by Section 19 of the Code of Criminal Procedure (Amendment) Act (Central Act 25 of 2005) w.e.f. 23-6-2006. The aforesaid amendment, in the opinion of the legislature, was essential as false complaints are filed against persons residing at far off places in order to harass them. The note for the amendment reads as follows:

“False complaints are filed against persons residing at far off places simply to harass them. In order to see that innocent persons are not harassed by unscrupulous persons, this clause seeks to amend sub-section (1) of Section 202 to make it obligatory upon the Magistrate that before summoning the



accused residing beyond his jurisdiction he shall enquire into the case himself or direct investigation to be made by a police officer or by such other person as he thinks fit, for finding out whether or not there was sufficient ground for proceeding against the accused.”

The use of the expression “shall” prima facie makes the inquiry or the investigation, as the case may be, by the Magistrate mandatory. The word “shall” is ordinarily mandatory but sometimes, taking into account the context or the intention, it can be held to be directory. The use of the word “shall” in all circumstances is not decisive. Bearing in mind the aforesaid principle, when we look to the intention of the legislature, we find that it is aimed to prevent innocent persons from harassment by unscrupulous persons from false complaints. Hence, in our opinion, the use of the expression “shall” and the background and the purpose for which the amendment has been brought, we have no doubt in our mind that inquiry or the investigation, as the case may be, is mandatory before summons are issued against the accused living beyond the territorial jurisdiction of the Magistrate.

13. In view of the decision of this Court in *Udai Shankar Awasthi v. State of U.P.* [(2013) 2 SCC 435 : (2013) 1 SCC (Civ) 1121 : (2013) 2 SCC (Cri) 708] , this point need not detain us any further as in the said case, this Court has clearly held that the provision aforesaid is mandatory. It is apt to reproduce the following passage from the said judgment: (SCC p. 449, para 40)

“40. The Magistrate had issued summons without meeting the mandatory requirement of Section 202 CrPC, though the appellants were outside his territorial jurisdiction. *The provisions of Section 202 CrPC were amended vide the Amendment Act, 2005, making it [Ed.: The matter between the two asterisks has been emphasised in original as well.] mandatory to postpone the issue of process [Ed.: The matter between the two asterisks has been emphasised in original as well.] where the accused resides in an area beyond the territorial jurisdiction of the Magistrate concerned.* The same was found necessary in order to protect innocent persons from being harassed by unscrupulous persons and making it obligatory upon the Magistrate to enquire into the case himself, or to direct investigation to be made by a police officer, or by such other person as he thinks fit for the purpose of finding out whether or not, there was sufficient ground for proceeding against the accused before issuing summons in such cases.”

14. In view of our answer to the aforesaid question, the next question which falls for our determination is whether the learned Magistrate before issuing summons has held the inquiry as mandated under Section 202 of the Code. The word “inquiry” has been defined under Section 2(g) of the Code, the same reads as follows:

“**2. (g) ‘inquiry’** means every inquiry, other than a trial,



conducted under this Code by a Magistrate or court;”

It is evident from the aforesaid provision, every inquiry other than a trial conducted by the Magistrate or the court is an inquiry. No specific mode or manner of inquiry is provided under Section 202 of the Code. In the inquiry envisaged under Section 202 of the Code, the witnesses are examined whereas under Section 200 of the Code, examination of the complainant only is necessary with the option of examining the witnesses present, if any. This exercise by the Magistrate, for the purpose of deciding whether or not there is sufficient ground for proceeding against the accused, is nothing but an inquiry envisaged under Section 202 of the Code.

11. In view of aforesaid factual and legal discussion and by taking note of fact as admittedly the application for license for petrol pump was submitted in year 2003 to IBP Company, which merged with IOCL only in the year 2007, with whom the petitioners were an employee. It is also an admitted position that even selection process and obtaining license from concerned departments, which requires to run petrol pump was obtained by IBP Company. Learned counsel for informant/OP No. 2 could not dispute this fact that complainant was silent for long ten years, while petrol pump was run by his own brother under the name of M/s. Kaushalya Nath Services at Benipatti, Madhubani. He could not also disputed that the complaint case was filed in year 2020 only i.e., after 17 years.

12. In view of all such facts as alleged forgery, if any, appears committed on behalf of accused no. 1 namely Jawahar Yadav in year 2003, when these petitioners were not in affairs of the company i.e., IBP by which the advertisement and selection of the petrol pump was made, therefore, arraying these petitioners being officers of company, which admittedly merged with IBP in year



2007, implication of petitioners appears out of oblique motive just to create pressure to settled personal vengeance.

13. Accordingly, by taking guiding note of **Pepsi Foods Ltd. And Another & Neeharika Infrastructure Pvt. Ltd. Case (supra)**, impugned order of cognizance dated 27.03.2021 along with all its consequential proceedings, *qua*, petitioners namely Subhash Ranjan Sinha and Rajeev Vishwash @ Rajib Biswas arising thereof as passed in Complaint Case No. 578 C/2019, in Cr. Misc No. 49361/2021 & Cr. Misc. No. 49507/2021 pending before learned Judicial Magistrate 1st Class, Patna is hereby quashed and set aside.

14. Hence, both these applications stands allowed.

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

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.08.2026
Transmission Date	18.08.2026

