

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.39796 of 2014

Arising Out of PS.Case No. -72 Year- 2013 Thana -COMPLAINT CASE District- SHEOHAR

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Manoj Kumar Razak @ Manoj Kumar Son of Late Hira Lal Razak Resident of
Village- Raghunathpur, P.S.- Raghunathpur, District -Patna

.... Petitioner/s

Versus

1. The State of Bihar, Through The Collector, Sheohar null null
2. Sri Harendra Kumar Singh Son of Late Chuman Prasad Singh Resident of
Village - Lalgah Jogia, P.S.- Shyampur Bhanaha , District - Sheohar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 20-09-2017

Petitioner has filed this application for quashing of the order taking cognizance passed by the Chief Judicial Magistrate, Sheohar dated 18.6.2013 in Complaint Case No. 72 of 2013 and for setting aside the order passed by the Sessions Judge, Sheohar in Revision No. 30 of 2014 dated 05.04.2014.

2. The short fact relevant for deciding the present case lies in narrow campus:

The petitioner at the relevant time was working as the District Programme Officer in the district of Sheohar. In the absence of District Magistrate, Sheohar. A 'Janta Darbar' was held by the Sub-divisional Magistrate in the premises of District Magistrate and



the petitioner was assisting him in the 'Janta Darbar'. The opposite party no.2 was one of the complainants in the 'Janta Darbar' who submitted a petition for redressal of his grievance pertaining to payment of third installment under the 'Bagwani Mission Project'. In the 'Janta Darbar' at the relevant time there was commotion and the police has to intervene and arrest the complainant. However, he was released on PR bond. After the aforesaid incident the complainant filed a complaint case against this petitioner. In his complaint he alleged that this petitioner refused to give the receipt of the representation submitted by the petitioner and allegedly misusing his official position abused and slapped the complainant and thereafter he was sent to police custody by the petitioner and the Sheohar police released him on P.R. bond. The learned Magistrate on examination of complainant on S.A. and the witnesses in inquiry under section 202 Cr.P.C. took cognizance under sections 323, 504 and 427 of the Indian Penal Code against the petitioner.

3. The petitioner aggrieved by the order taking cognizance filed Revision No. 30 of 2014. In Criminal Revision, the petitioner impugned the order taking cognizance on the ground that no offence under sections 323, 504 and 427 of the Indian Penal Code is made out from the materials available on record and also raised the issue that in the absence of sanction under section 197 Cr.P.C. the



order taking cognizance is bad as the petitioner is a government servant and the incidence dated 28.2.2013 is connected with the discharge of his official duty. The learned Sessions Judge, Sheohar held out that the order taking cognizance by the Chief Judicial Magistrate does not suffer from any vice as the same was taken after inquiry under section 202 Cr.P.C. He rejected the contention of the petitioner as to protection under section 197 of the Cr.P.C. The learned Sessions Judge distinguished the judgment reported in AIR 2000 SC 3187 (**Abdul Wahab Ansari vs. State of Bihar and another**) on which the petitioner has relied upon and held out that it is inapplicable in the facts of the case. The relevant part of the consideration by the learned Sessions Judge reads as follows:-

“Act of the accused can not come within the purview of discharge of official duty and in such circumstances the protecting as laid down under the provisions of section 197 Cr.P.C. will not come to his rescue, in my view, the learned C.J.M. was justified in taking cognizance of the offence against the petitioner/accused. At this stage the learned lawyer for the petitioner has referred to ruling reported in A.I.R. 2000 supreme Court 3187 to buttress his argument that without sanction for prosecution of the petitioner/accused the cognizance against him is bad in law. But with almost veneration, I would like to mention here that the facts of the case referred to in the ruling are



quite distinct from the facts of the instant case and the same is not applicable in this case.”

4. Mr. Bamdeo Pandey appearing on behalf of the petitioner has submitted that Section 197 Cr.P.C. is applicable to the case of the petitioner as the alleged act is directly connected with the official discharging of his duty and as such order taking cognizance is bad in the absence of prior sanction of the State Government. He placed reliance on Apex Court judgments reported in **AIR 2000 SC 3187, PLJR 2016(3) 296 PLJR 2016(3) 145 and PLJR 2016(4) 254** in support of his case whereas Mr. Devendra Kumar appearing on behalf of the opposite party placed reliance on **2015 (3) PLJR (SC) 32, PLJR 2015(3) SC 204 PLJR 2016(3) 145 and PLJR 2016(4) SC 254** and contended that sanctioned is not required in this case.

5. In the instant case the only issue require adjudication is whether sanction is required under section 197 of the Cr.P.C. before order taking cognizance or not?

Section 197 of the Cr.P.C. reads as follows:-

***“Prosecution of Judges and public servants:-
(1) When any person who is or was a Judge or Magistrate or a public servants not removal from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such***



offence except with the previous sanction { save as otherwise provided in the Lokpal and Lokayuktas Act, 2013(1 of 204)}-

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government.;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government:

[Provided that where the alleged offence was committed by a person referred to in Clause (b) during the period while a Proclamation issued under clause(1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression “State Government” occurring therein, the expression “Central Government” were substituted.]

[Explanation.- For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 166-A, section 166-B, section 354, section 354-A, section 354-B, section 354-C, section 354-D, section 370, section 375, section 376, section 376-A, section 376-C, section 376-D or section 509 of the Indian Penal Code (45 of 1860.)]

(2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or



purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.

(3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted.

(3-A) Notwithstanding anything contained in sub-section (3) no Court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government.

(3-B) Notwithstanding anything to the contrary contained in this Code or any other law, it is hereby declared that any sanction accorded by the State Government or any cognizance taken by a Court upon such sanction, during the period commencing on the 20th day of August, 1991 and ending with the date immediately preceding the date on which the Code of Criminal Procedure (Amendment) Act, 1991 receives the



assent of the President, with respect to an offence alleged to have been committed during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in the State, shall be invalid and it shall be competent for the Central Government in such matter to accord sanction and for the Court to take cognizance thereon.]

(4) The Central Government or the State Government, as the case may be, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held. “

6. The issue with regard to prior sanction has been raised on various occasions and the Apex Court time and again explained the legal position and the judgment on which the petitioner relied upon that sanction is required is the three judges judgment reported in AIR 2000 page 3187 wherein the Apex Court held out that if his act of complaint relates to discharge of official duty then section 197 Cr. P.C. is imperative. The exposition of law on applicability of section 197 of the Cr.P.C. is discussed in the aforesaid judgment.

Para 4 onwards of the aforesaid judgment is quoted herein below for better appreciation of the core principles;

(1) Assuming the provisions of Section 197 of the Code of Criminal Procedure applies, at what stage the accused can take such plea? Is it immediately after



the cognizance is taken and process is issued or it is only when the Court reaches the stage of framing of charge as held by this Court in Birendra K. Singh's case?

(2) Whether in the facts and circumstances of the present case, is it possible for the Court to come to a conclusion that the appellant was discharging his official duty and in course of such discharge of duty, ordered for opening of fire to control the mob in consequence of which a person died and two persons were injured and in which event, the provisions of Section 197 of the Code of Criminal Procedure can be held to be attracted?

5 So far as the first question is concerned, on a plain reading of the provisions of Section 197 makes it crystal clear that the Court is prohibited from taking cognizance of the offence except with the previous sanction of the competent authority. For a better appreciation of the point in issue, Section 197(1) is quoted herein-below in extenso:

"Section 197(1). When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction-



(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government."

6 Previous sanction of the competent authority being a pre-condition for the Court in taking cognizance of the offence if the offence alleged to have been committed by the accused can be said to be an act in discharge of his official duty, the question touches the jurisdiction of the Magistrate in the matter of taking cognizance and, therefore, there is no requirement that an accused should wait for taking such plea till the charges are framed. In Suresh Kumar Bhikamchand Jain V/s. Pandey Ajay Bhushan, (1998) 1 SCC 205 : (1998 AIR(SCW) 544 : AIR 1998 SC 1524 : 1998 Cri LJ 1242), a similar contention had been advanced by Mr. Sibbal, the learned Senior Counsel appearing for the appellants in that case. In that case, the High Court had held on the application of the accused that the provisions of Section 197 gets attracted. Rejecting the contention, this Court had observed (Para 23 of AIR, Cri LJ) :

"The legislative mandate engrafted in sub-sec. (1) of Section 197 debarring a Court from taking



cognizance of an offence except with a previous sanction of the Government concerned in a case where the acts complained of are alleged to have been committed by a public servant in discharge of his official duty or purporting to be in the discharge of his official duty and such public servant is not removable from his office save by or with the sanction of the Government touches the jurisdiction of the Court itself. It is a prohibition imposed by the statute from taking cognizance, the accused after appearing before the Court on process being issued, by an application indicating that Section 197(1) is attracted merely assists the Court to rectify its error where jurisdiction has been exercised which it does not possess. In such a case there should not be any bar for the accused producing the relevant documents and materials which will be ipso facto admissible for adjudication of the question as to whether in fact Section 197 has any application in the case in hand. It is no longer in dispute and has been indicated by this Court in several cases that the question of sanction can be considered at any stage of the proceedings."

The Court had further observed (Para 24 of AIR Cri LJ) :

"The question of applicability of Section 197 of the Code and the consequential ouster of jurisdiction of the Court to take cognizance without a valid sanction is genetically different from the plea of the accused



that the averments in the complaint do not make out an offence and as such the order of cognizance and/or the criminal proceedings be quashed. In the aforesaid premises we are of the considered opinion that an accused is not debarred from producing the relevant documentary materials which can be legally looked into without any formal proof, in support of the stand that the acts complained of were committed in exercise of his jurisdiction or purported jurisdiction as a public servant in discharge of his official duty thereby requiring sanction of the appropriate authority."

In the case of Ashok Sahu V/s. Gokul Saikia, 1990 Supp SCC 41, this Court had said that want of sanction under Section 197 of the Code is a prohibition against institution of the proceedings, and the applicability of the Section must be judged at the earliest stage of the proceedings and in that case, the Court directed the Magistrate to consider the question of sanction before framing a charge. In yet another case, in the case of P. Saha V/s. M. S. Kochar, (1979) 4 SCC 177 : (AIR 1979 SC 1841 : 1979 Cri LJ 1367), a three Judge Bench of this Court had held that the question of sanction under Section 197, Code of Criminal Procedure can be raised and considered at any stage of the proceedings and further in considering the question whether or not sanction for prosecution was required, it is not necessary for the Court to confine itself to the allegations in the



complaint, and it can take into account all the material on the record at the time when the question is raised and falls for consideration. This being the position, we are of the considered opinion that the decision of this Court in Birendra K. Singh's case, (2000) 8 JT (SC) 248, does not lay down the correct law by directing that the objection on the question of sanction can be raised at the stage of framing of charge and not at any prior point of time.

7 Coming to the second question, it is now well settled by the Constitution Bench decision of this Court in Matajog Dobey V/s. H. C. Bhari, (1955) 2 SCR 925 : (AIR 1956 SC 44 : 1956 Cri LJ 140) that in the matter of grant of sanction under Section 197 of the Code of Criminal Procedure the offence alleged to have been committed by the accused must have something to do, or must be related in some manner, with the discharge of official duty. In other words, there must be a reasonable connection between the act and the discharge of official duty; the act must bear such relation to the duty that the accused could lay a reasonable claim, but not a pretended or fanciful claim, that he did it in the course of the performance of his duty. In the said case it had been further held that where a power is conferred or a duty imposed by statute or otherwise, and there is nothing said expressly inhibiting the exercise of the power or the performance of the duty by any limitations or restrictions, it is reasonable to hold that it carries with



it the power of doing all such acts or employing such means as are reasonably necessary for such execution, because it is a rule that when the law commands a thing to be done, it authorises the performance of whatever may be necessary for executing its command. This decision was followed by this Court in Suresh Kumar Bhikamchand Jain's case, (1998) 1 SCC 205 : (1998 AIR(SCW) 544 : AIR 1998 SC 1524 : 1998 Cri LJ 1242) and in a recent Judgement of this Court in the case of Gauri Shankar Prasad V/s. State of Bihar, (2000) 5 SCC 15 : (2000 AIR(SCW) 3135). The aforesaid case has full force even to the facts of the present case inasmuch as in the said case, the Court had observed (Para 14 of AIR SCW) :

"It is manifest that the appellant was present at the place of occurrence in his official capacity as Sub-Divisional Magistrate for the purpose of removal of encroachment from Government land and in exercise of such duty, he is alleged to have committed the acts which from the gravamen of the allegations contained in the complaint lodged by the respondent. In such circumstances, it cannot but be held that the acts complained of by the respondent against the appellant have a reasonable nexus with the official duty of the appellant. It follows, therefore, that the appellant is entitled to the immunity from criminal proceedings without sanction provided under Section 197, Cr. P. C."



It is not necessary for us to multiply authorities on this point and hearing in mind the ratio of the aforesaid cases and applying the same to the facts of the present case as indicated in the complaint itself, we have no hesitation to come to the conclusion that the appellant had been directed by the Sub-Divisional Magistrate to be present with police force and remove the encroachment in question and in course of discharge of his duty to control the mob, when he had directed for opening of fire, it must be held that the order of opening of fire was in exercise of the power conferred upon him and the duty imposed upon him under the orders of the Magistrate and in that view of the matter the provisions of Section 197(1) applies to the facts of the present case. Admittedly, there being no sanction, the cognizance taken by the Magistrate is bad in law and unless the same is quashed qua the appellant, it will be an abuse of the process of Court. Accordingly, we allow this appeal and quash the criminal proceeding, so far as the appellant is concerned.

7. In the case of **Inspector of Police and Anr. vs. Battenapatia Venkata** reported in 2015(3) PLJR 32(SC), the Apex Court on consideration of the judgment in **Shambhoo Nath Mishra vs. State of U.P. and others** 1987 SCC 326, **Rajib Ranjan & Ors. vs. R. Vijay Kumar** (2015) 1 SCC 513 and other cases examined the various aspect of section 197 Cr.P.C. and held out that public



servant deserve special treatment but protection has to be construed to advance to cause of justice.

Para- 10 and 11 of the aforesaid judgment is quoted hereinbelow:

10. *“As already observed, the contention of the appellant is that when there is allegation of forgery and discovery of documents is necessary, a Magistrate must order investigation under section 156(3) instead of proceeding under section 202. Alternatively, direction to the police to investigate and give a report under section 202 implies arrest and discovery which under section 157 of the Code are integral parts of investigation. Contrary view of Gujarat High Court in Sankalchand Valjibhai Patel(supra) and other High Courts are erroneous while the view taken by other High Courts to which reference will be made in later part of this judgment is correct. Section 202(3) expressly provides that if a person, other than police officer is required to conduct investigation under section 202(1), he is not authorized to arrest without warrant which implied that there is no such restriction on power of arrest available with a police officer.*

11. *On the other hand, contention on behalf of the alleged accused is that both the powers of the Magistrate---(i) directing investigation under section 156(3); and (ii) direction under section 202 to seek a report from police after investigation to enable the Magistrate to decide whether to proceed further and issue process are qualitatively different and are in different chapters of the*



Code. Thus, as per scheme of the Code, power of police in pursuance of directions under the said two provisions is not the same.

The Magistrate has discretion either to direct registration of a case under Section 156(3) or to conduct inquiry himself as the situation may warrant. This discretion is to be exercised by the Magistrate in his wisdom and having regard to the nature of material available. Direction under section 156(3) to register a criminal case and to investigate is to be exercised where the Magistrate is satisfied that prima facie a cognizable offence has been committed. On the contrary, where he thinks it necessary to conduct further inquiry before deciding whether he should proceed further in the matter, matter has to be dealt with under Section 202. Mere allegation of forgery is not enough to require the Magistrate to pass the order under Section 156(3)."

8. Similar was the view expressed by the Apex Court in the case of **Devendra Singh and ors. vs. State of Punjab 2016 (3) PLJR (SC) 145** wherein the two judges referred to the various judgments of the Apex Court summaries the principle of protection under section 197 of the Cr.P.C. with regard to order taking cognizance.

Para 37 is quoted for ready reference:-

"1. Protection of sanction is an assurance to an honest and sincere officer to perform his duty honestly



and to the best of his ability to further public duty. However, authority cannot be camouflaged to commit crime.

II. Once act or omission has been found to have been committed by public servant in discharging his duty it must be given liberal and wide construction so far its official nature is concerned. Public servant is not entitled to indulge in criminal activities. To that extent Section 197 Cr. P.C. has to be construed narrowly and in a restricted manner.

III. Even in facts of a case when public servant has exceeded in his duty, if there is reasonable connection it will not deprive him of protection under Section 197 Cr.P.C. There cannot be a universal rule to determine whether there is reasonable nexus between the act done and official duty nor it is possible to lay down such rule.

IV. In case the assault made is intrinsically connected with or related to performance of official duties sanction would be necessary under section 197 Cr.P.C. but such relation to duty should be pretended or fanciful claim. The offence must be directly and reasonably connected with the official duty to require sanction. It is no part of official duty to commit offence. In case offence was incomplete without proving, the official act, ordinarily the provisions of Section 197 Cr.P.C. would apply.

V. In case question is necessary it has to be decided by competent authority and sanction has to be



issued on the basis of sound objective assessment. The court is not to be a sanctioning authority.

VI. Ordinarily, question of sanction should be dealt with at the stage of taking cognizance, but if the cognizance is taken erroneously and the same comes to the notice of Court at a later stage, finding to that effect is permissible and such a plea can be taken first time before appellate Court. It may arise at inception itself. There is no requirement that accused must wait till charges are framed.

VII. Question of sanction can be raised at the time of framing of charge and it can be decided prima face on the basis of accusation. It is open to decide it afresh in light of evidence adduced after conclusion of trial or at other appropriate stage.

VIII. Question of sanction may arise at any stage of proceedings. On a police or judicial inquiry or in course of evidence during trial. Whether sanction is necessary or not may have to be determined from stage to stage and material brought on record depending upon facts of each case. Question of sanction can be considered at any stage of the proceedings. Necessity for sanction may reveal itself in the course of the progress of the case and it would be open to accused to place material during the course of trial for showing what his duty was. Accused has the right to lead evidence in support of his case on merits.

IX. In some case it may not be possible to decide the question effectively and finally without giving



opportunity to the defence to adduce evidence. Question of good faith or bad faith may be decided on conclusion of trial.”

9. In 2016(4) PLJR (SC) the two judges of the Supreme Court once again considered the various aspect of section 197 of the Cr.P.C. in the context of allegation of offence of cheating. Under sections 467, 468, 471 and 409, the Apex Court on consideration of the various judgments of the Apex Court held out that sanction under section 197 of the Cr.P.C is not necessary as there has to be reasonable connection between omission or commission of the discharge of official duty and the act committed was under the colour of the office held by the official. if the acts omission or commission is totally alien to the discharge of the official duty protection under section 197 Cr.P.C. is not available.

Para-22 of the judgment contains core principles applicable in the matter of application of section 197 Cr.P.C. which is quoted hereinbelow:-

A survey of the precedents makes it absolutely clear that there has to be reasonable connection between the omission or commission and the discharge of official duty or the act committed was under the colour of the office held by the official. If the acts omission or commission is totally alien to the discharge of the official duty, question of invoking Section 197



Cr.P.C. does not arise. We have already reproduced few passages from the impugned order from which it is discernible that to arrive at the said conclusion the learned Single Judge has placed reliance on the authority in B. Saha's (supra). The conclusion is based on the assumption that the allegation is that while being a public servant, the alleged criminal breach of trust was committed while he was in public service. Perhaps the learned Judge has kept in his mind some kind of concept relating to dereliction of duty. The issue was basically entrustment and missing of the entrusted items. There is no dispute that the prosecution had to prove the case. But the public servant cannot put forth a plea that he was doing the whole act as a public servant. Therefore, it is extremely difficult to appreciate the reasoning of the High Court. As is noticeable he has observed that under normal circumstances the offences under Sections 467, 468 and 471 IPC may be of such nature that obtaining of sanction under Section 197 CrPC is not necessary but when the said offences are interlinked with an offence under section 409 IPC sanction under Section 197 for launching the prosecution for the offence under Section 409 is a condition precedent. The approach and the analysis are absolutely fallacious. We are afraid, though the High Court has referred to all the relevant decisions in the field, yet, it has erroneously applied the principle in



an absolute fallacious manner. No official can put forth a claim that breach of trust is connected with his official duty. Be it noted the three-Judge Bench in B. Saha (supra) has distinguished in Shreekantiah Ramayya Munipalli (supra) keeping in view the facts of the case. It had also treated the ratio in Amrik Singh (supra) to be confined to its own peculiar facts. The test to be applied, as has been stated by Chandrasekhara Aiyar, J. in the Constitution Bench in Matajog Dube (supra) which we have reproduced hereinbefore. The three-Judge Bench in B. Saha (supra) applied the test laid down in Gill's case wherein Lord Simonds has reiterated that the test may well be whether the public servant, if challenged, can reasonably claim, that what he does, he does in virtue of his office.

10. In the backdrop of principle discussed by the Apex Court referred to above, this court has to consider the submission of the parties on the factual premises:

(i) Whether the petitioner is a public servant or not and is protected in terms of Section 197? ;

(ii) Whether the alleged act or omission is connected to the official discharge of his duty or not?

11. So far as answer of the first question is concerned the petitioner is a public servant or not, is in favour of the petitioner as at



the relevant time he was holding the post of District Programme Officer.

12. The second question whether the alleged act or omission pertains to the official discharge of duty is in two parts (i) that he was deputed in the premises of District Magistrate in connection with 'Janta Darbar' therefore, he was performing his duty in the 'Janta Darbar' and assisting the Sub-divisional officer.

13. Now the crucial issue for adjudication in this case is;

Whether the alleged act of abuse and slap of the complainant was in furtherance of the official discharge of his duty or not? If the courts proceed on complaint petition simplicitor then answer is negative, however reading the 'Sanha' entry contained in Annexure-2, it appears that the Sub-Divisional Officer, Sheohar noticing the act of the complainant creating commotion in the 'Janta Darbar' summoned the police and the complainant opposite party no.2 was apprehended by the police and later on released on P.R bond.

14. In the backdrop of the 'Sanha' entry by the police and the intervening fact that the Sub-Divisional Officer, Sheohar has intervened in the matter and summoned the police, I am constraint to consider the desirability of exercising jurisdiction under section 482 of the Cr.P.C. for two reasons (a) as the matter has remained pending



for more than four years and this petitioner has also suffered ordeal of criminal case for more than four years, (b) the ‘Sanha’ entry tells altogether different story that the one mentioned in the complaint case. In the totality of the facts of this case, I am of the view that present case does fall in the category of cases where sanction is required for taking cognizance in view of the fact that petitioner was posted in ‘Janta Darbar’ to assist the Sub-Divisional Magistrate and was responsible for maintaining peace and order in the ‘Janta Darbar’ and in view of the judgment of the Apex Court reported in **AIR 2000 SC 3187** discussed above, the application is allowed, the order taking cognizance dated 18.6.2013 passed by Chief Judicial Magistrate, Sheohar in Complaint Case No. 72 of 2013 and the order dated 05.04.2014 passed by the Sessions Judge, Sheohar, in Cr. Revision No. 30 of 2013 is accordingly set aside.

(Anil Kumar Upadhyay, J)

Ravi/-

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