

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.43749 of 2019**

Arising Out of PS. Case No.-673 Year-2015 Thana- BHABHU(KAIMUR) COMPLAIN C  
District- Kaimur (Bhabua)

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DEVENDRA PRASAD BIND @ DEVENDRA BIND Son of Late Bigan Bind Resident of Village - Asarahi, P.S.- Chainpur, District - Kaimur at Bhabua. At present address - Mauja Hata, Post - Hata, P.S.- Chainpur, District - Kaimur at Bhabua.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Ashish Kumar Jha Son of Suresh Jha N.A.
3. Assistant Electrical Engineer, Bhabua Resident of Village and Post - Rasiary, P.S.- Ghanshyampur, District - Kaimur at Bhabua.
4. Ajeet Kumar Ram Son of Ramesh Prasad Junior Electrical Engineer Chainpur, District - Kaimur at Bhabua.
5. Jaiprakash Yadav Son of Ramadhar Yadav Local Electrical Mistri, Chainpur, District - Kaimur at Bhabua.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Rajani Kant Pandey, Advocate  
For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**  
**ORAL ORDER**

2      27-08-2019                      Heard   Mr.   Rajani   Kant   Pandey,   learned  
  
advocate for the petitioner and Mr. Ram Priya Sharan  
  
Singh, learned advocate for the State.

The petitioner, who is the complainant of  
  
Complaint Case No. 728 of 2015 has challenged the  
  
order dated 10.04.2019 passed by the learned  
  
Additional Sessions Judge-III, Kaimur at Bhabua in Cr.



Rev. No. 150 of 2016 whereby the order of cognizance passed by the learned Chief Judicial Magistrate, Kaimur at Bhabua dated 09.11.2015 against opposite parties has been set aside on the ground of the offence not having been made out against them and absence of sanction for their prosecution.

It appears from the records of the case that the petitioner had filed a complaint against opposite parties no. 2 to 4 alleging that the request of the petitioner to install a meter was never acceded to but surreptitiously and fraudulently, bills of consumption of electricity were issued. When this matter was brought to the notice of opposite parties no. 2, 3 and 4 by the complainant, no action was taken and the petitioner/complainant was threatened of dire consequences if the bills were not paid.

Hence the complaint petition.

The learned Chief Judicial Magistrate, Kaimur, on the basis of the complaint and the deposition of



witnesses offered on behalf of the petitioner/complainant, took cognizance against opposite parties no. 2 to 4 for offences under Sections 119, 218, 420, 467 and 468 of the Indian Penal Code.

The aforesaid order of cognizance referred to above was set aside by the revisional court which is under challenge in the present petition.

A perusal of the order impugned clearly depicts that the court below has taken note of the fact that the job of billing was not of the opposite parties no. 2 to 4 and if at all, wrong billing was done without fixing the electric meter, that would have entailed some action on the part of the complainant in the shape of bringing the issue before the superior authorities but under no circumstance could it have attracted the ingredients of the offences for which cognizance has been taken.

The subtle line of distinction between the official duty and a duty which cannot be said to be official has been taken note of by the revisional court and it has



been held that issuance of bills, though is not the mandate of the job of opposite parties no. 2 to 4 but even if it were, wrong billing would not attract the provisions of any of the Sections of Indian Penal Code in which cognizance has been taken.

For such reasons, the order of cognizance was set aside.

This Court finds no anomaly or fault with the order passed in revision.

The petition therefore is dismissed.

**(Ashutosh Kumar, J)**

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