

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.69484 of 2018**

Arising Out of PS. Case No.-651 Year-2018 Thana- KOTWALI District- Patna

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1. H.D.F.C. Bank Ltd. Through Mr. Jayanta Banerjee and Anr son of Ajit Banerjee, age about 46 years, presently posted as State Head West Bengal, Whole Sale Banking Operation, H.D.F.C. Bank Ltd., Authorized representative of H.D.F.C. Bank Ltd., 3A, Gurusaday Road, Kolkata.
  2. Aditya Puri, son of Late Tapishwar Puri, aged about 67 years, Managing Director HDFC Bank Ltd. Senapati Bapat Marg, Lower Patel West, P.S.- N.M. Joshi Marg, Mumbai.

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Rakesh Kumar Verma, Son of Late Mithilesh Prasad Verma, R/o 117 E, Swawlambi Residency, Daudbigha, Kankarbagh, P.S.- Agamkuan, District- Patna.

... .. Opposite Party/s

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with

**CRIMINAL MISCELLANEOUS No. 69402 of 2018**

Arising Out of PS. Case No.-651 Year-2018 Thana- KOTWALI District- Patna

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V. Chakrapani @ Chakrapani Venkatachari S/o Late Venkatachari Rajagopalan aged about 54 years, Head Audit and Compliances, HDFC Ltd., Senapati Bapat Marg, Lower Patel West, P.S.- N.M. Joshi Marg, Mumbai.

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Rakesh Kumar Verma, Son of Late Mithilesh Prasad Verma, R/o 117 E, Swawlambi Residency, Daudbigha, Kankarbagh, P.S.- Agamkuan, District- Patna.

... .. Opposite Party/s

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with

**CRIMINAL MISCELLANEOUS No. 70334 of 2018**

Arising Out of PS. Case No.-651 Year-2018 Thana- KOTWALI District- Patna

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Sanjay Karmakar S/o Late Sukumar Karmakar, Presentlu Posted as State Head Bihar, Whole Sale Banking Operarion, H.D.F.C. Bank Ltd., 651, Jamal Road, P.S.-Kptwali, Patna.

... .. Petitioner/s

Versus



1. State Of Bihar.
2. Rakesh Kumar Verma, Son of Late Mithilesh Prasad Verma, R/o 117 E, Swawlambi Residency, Daudbiga, Kankarbagh, P.S.-Agamkuan, District Patna.

... .. Opposite Party/s

with

**CRIMINAL MISCELLANEOUS No. 72375 of 2018**

Arising Out of PS. Case No.-651 Year-2018 Thana- KOTWALI District- Patna

1. Badal Mohanty S/o Sri Jogendra Mohanty, age about 47 years, was posted as Regional Head-Audit-East, HDFC Bank Ltd Presently posted as Regional Head-Audit-North, HDFC Bank Ltd., A111. Sector-4, P.S.- Sector 20 Noida, Noida- 201301, State- Uttar Pradesh.
2. Abhijit Kamalia @ Abhijit Kamalia, S/o Kailash Kamalia, age about 38 years, is posted as Vice President-Audit-Kolkata. HDFC Bank Ltd., 3A Gurusaday Road, P.S.- Karaya Thana, District- Kolkata, State- West Bengal.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Home, Govt. Of Bihar, Patna and A
2. Rakesh Kumar Verma, Son of Late Mithilesh Prasad Verma, R/o 117E, Swawlambi Residency, Daudbiga, Kankarbagh, P.S.- Agamkuan, District- Patna.

... .. Opposite Party/s

with

**CRIMINAL MISCELLANEOUS No. 72379 of 2018**

Arising Out of PS. Case No.-651 Year-2018 Thana- KOTWALI District- Patna

Bhavesh Zaveri S/o late Chandulal Mohanlal Zaveri , age about 52 years Head Operator Mumbai HDFC Bank Ltd. Whole Sale Banking Operation, Senapati Bapat Marg, Lower Patel West P.S. N.M. Joshi Marg, Mumbai.

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Rakesh Kumar Verma Son of late Mithilesh Prasad Verma R/o 117 E, Swawlambi Residency, Daudbiga, Kankarbagh, P.S. Agamkuan, District- Patna.

... .. Opposite Party/s

with



**CRIMINAL MISCELLANEOUS No. 72549 of 2018**

Arising Out of PS. Case No.-651 Year-2018 Thana- KOTWALI District- Patna

1. Arun Mohanty @ Arun Kumar Mohanty and Anr S/o Late Brundabn Chandra Mohanty,aged about 60 years,Chief Compliance Officer,Mumbai,HDFC Bank Ltd P.S. N.M. Joshi Marg,Distt.-Mumbai,State-Maharashtra
2. Priti Ranjan Dash S/o Late Janardan Dash,aged about 59 years,Vide President Compliance,Mumbai,HDFC Bank Ltd.,HDFC Bank P.S. N.M. Joshi Marg,Distt.-Mumbai,State-Maharashtra

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Rakesh Kumar Verma Son of Late Mithilesh Prasad verma R/o 117 E,Swawlambi Residency,Daudbigha,Kankarbagh,P.S. Agamkuan,Distt.-Patna

... .. Opposite Party/s

with

**CRIMINAL MISCELLANEOUS No. 73265 of 2018**

Arising Out of PS. Case No.-651 Year-2018 Thana- KOTWALI District- Patna

Ranjan Sengupta Son of Chandan Sengupta,age about 46 years,was posted as Head RBCU East HDFC Bank Ltd.,3 A Gurusada

... .. Petitioner/s

Versus

State Of Bihar.

... .. Opposite Party/s

with

**CRIMINAL MISCELLANEOUS No. 74706 of 2018**

Arising Out of PS. Case No.-651 Year-2018 Thana- KOTWALI District- Patna

Gourab Roy S/o late Suchit Kumar Roy, aged about 52 years Resgional Head operation East and South, Whole Sale Banking Operations, HDFC Bank Ltd. 3a Gurusaday Road, P.S. Karaya Thana, District- Kolkatta, State West Bengal.

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Rakesh Kumar Verma Son of late Mithilesh Prasad Verma R/o 117 E, Swalambi Residency, Daudbigha, Kankarbagh, P.S. Agamkuan, District-Patna.



... .. Opposite Party/s

with  
**CRIMINAL MISCELLANEOUS No. 76445 of 2018**

Arising Out of PS. Case No.-651 Year-2018 Thana- KOTWALI District- Patna

Manikandan Ramanathan S/o Sri Ramnathan, age about 46 years, was posted as State Head. Whole Sale Banking Operation, H.D.F.C

... .. Petitioner/s

Versus

1. State Of Bihar.
2. Rakesh Kumar Verma Son of Late Mithilesh Prasad Verma R/o 117 E, Swawlambi Residency, Daudbigha, Kankarbagh, P.S. Agamkuan, Distt. Patna.

... .. Opposite Party/s

**Appearance :**

(In CRIMINAL MISCELLANEOUS No. 69484 of 2018)

For the Petitioner/s : Mr. P.K. Shahi, Senior Advocate  
Mr. Girijish Kumar, Advocate

For the State : Mr. Sri Dashrath Mehta, APP

(In CRIMINAL MISCELLANEOUS No. 69402 of 2018)

For the Petitioner/s : Mr. P.K. Shahi, Senior Advocate  
Mr. Girijish Kumar, Advocate

For the State : Mr. Sri Bharat Bhushan, APP

(In CRIMINAL MISCELLANEOUS No. 70334 of 2018)

For the Petitioner/s : Mr. P.K. Shahi, Senior Advocate  
Mr. Girijish Kumar, Advocate

For the State : Mr. Sri Chaubey Jawahar, APP

(In CRIMINAL MISCELLANEOUS No. 72375 of 2018)

For the Petitioner/s : Mr. P.K. Shahi, Senior Advocate  
Mr. Girijish Kumar, Advocate

For the State : Mr. Sri Amit Kumar Rakesh, APP

(In CRIMINAL MISCELLANEOUS No. 72379 of 2018)

For the Petitioner/s : Mr. P.K. Shahi, Senior Advocate  
Mr. Girijish Kumar, Advocate

For the State : Mr. Sri Bharat Bhushan, APP

(In CRIMINAL MISCELLANEOUS No. 72549 of 2018)

For the Petitioner/s : Mr. P.K. Shahi, Senior Advocate  
Mr. Girijish Kumar, Advocate

For the State : Mr. Sri Chaubey Jawahar, APP

(In CRIMINAL MISCELLANEOUS No. 73265 of 2018)

For the Petitioner/s : Mr. P.K. Shahi, Senior Advocate  
Mr. Girijish Kumar, Advocate

For the State : Mr. Sri Amit Kumar Rakesh, APP

(In CRIMINAL MISCELLANEOUS No. 74706 of 2018)

For the Petitioner/s : Mr. P.K. Shahi, Senior Advocate  
Mr. Girijish Kumar, Advocate

For the State : Mr. Sri Amit Kumar Rakesh, APP

(In CRIMINAL MISCELLANEOUS No. 76445 of 2018)



For the Petitioner/s : Mr. P.K. Shahi, Senior Advocate  
Mr. Girijish Kumar, Advocate  
For the State : Mr. Sri Amit Kumar Rakesh, APP

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**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**  
**CAV JUDGMENT**

**Date : 29-08-2022**

Heard Mr. P.K. Shahi, learned Senior Counsel assisted by Mr. Girijish Kumar for the petitioners and learned APP for the State. The opposite party no.2 appears on 31.10.2018 in one of the batch cases, i.e., Cr. Misc. No.38208 of 2019 by filing *Vakalatnama*, but till date even after expiry of more than two years, opposite party no.2 has not filed any reply in the quashing application filed by the petitioner. Opposite Party No.2 has only filed I.A. No.01/2019 for vacating the stay granted by this Court, but I.A. No.01/2019 has not been pressed by opposite party no.2 till date. Today also, nobody appears on behalf of opposite party no.2.

2. In view of the facts aforesaid, these quashing applications are being disposed of by this common judgment on the basis of materials available on record.

3. The petitioners, in all the above petitions, have sought quashing of the FIR pertaining to Kotwali P.S. Case No.651 of 2018 dated 23.09.2018 which has been instituted for under Sections 197, 198, 201, 409, 406, 499, 500, 504 and 120B of the Indian Penal Code.



4. In Cr. Misc. No.69484 of 2018, petitioner no.1 is the bank of which petitioner no.2 is the Managing Director, HDFC Bank Ltd., Senapati Bapat Marg, Lower Patel (West), P.S.- N.M. Joshi Marg, Mumbai. In Cr. Misc. No.69402 of 2018, the sole petitioner is the Head Audit and Compliance, HDFC Bank, Mumbai. In Cr. Misc. No.70334 of 2018, the petitioner is State Head – WBO, HDFC Bank Ltd., Bihar. In Cr. Misc. No.72375 of 2018, petitioner no.1 is the Regional Head Audit - East, HDFC Bank, Kolkata and petitioner no.2 is the Vice President-Audit, HDFC Bank, Kolkata. In Cr. Misc. No.72379 of 2018, the petitioner is the Head Operation, HDFC Bank Ltd., Mumbai. In Cr. Misc. No.72549 of 2018, petitioner no.1 is the Chief Compliance Officer, HDFC Bank, Mumbai and petitioner no.2 is the Vice President Compliance, HDFC Bank, Mumbai. In Cr. Misc. No.73265 of 2018, the petitioner is the Head RBCU East, HDFC Bank Ltd., Kolkata. In Cr. Misc. No.74706 of 2018, the petitioner is the Regional Head Operation, HDFC Bank Ltd., Kolkata and in Cr. Misc. No.76445 of 2018, the petitioner is the State Head -WBO, HDFC Bank Ltd., Bihar.

5. The prosecution case is that the opposite party no.2 filed Complaint Case No.3805(c)/2018 before the learned Chief Judicial Magistrate, Patna wherein he alleged that he was



appointed to the part of Executive Transactional Banking Group (Operation) vide letter dated 24.07.2002 issued under the signature of the Head H.R. Operation, HDFC Bank Ltd., Mumbai and the complainant joined at Patna in August, 2002. O.P. No.2 further stated that after working for almost 14 years with the company and while he was working as Deputy Vice President at Patna, he was put under suspension vide letter dated 25.02.2016 issued by Gourab Roy, RH-WBO-East (accused) on certain lapses on his part while, thereafter, all of sudden vide letter dated 28.06.2016 issued under the signature of Anuj V. Mathur (accused), the opposite party no.2 was terminated from the service without any show cause/Memo/Charge or any communication in this regard. O.P. No.2 further alleged that said illegal termination was challenged in Civil Suit No.212/17 in which HDFC Bank awarded penalty of Rs.200/- for non-appearance and in which HDFC appeared after ex-parte order passed by the court. The O.P. No.2 further stated that he was in touch with immediate supervisor Gourab Roy (accused) regarding progress of the pending investigation but he was not informed regarding the same. O.P. No.2 sought information under Right to Information Act from Reserve Bank of India than Reserve Bank of India provided the information vide letter dated 13.07.2017 and confirmed that HDFC



Bank reported a fraud incidence of Rs.1.86 crore at Patna and Bhagalpur Branch. The O.P. No.2 again approached the RBI, under RTI and he came to know that HDFC Bank filed a police complaint regarding fraud to the State Police vide GD No.1143 dated 29.07.2016 to Kotwali Police at Patna.

6. It was alleged that the witness of the said complaint sought information under Right to Information Act from the Kotwali Police Station, Patna than information was provided vide letter dated 20.02.2017 in which it has been mentioned that HDFC Bank lodged Sanha on 29.07.2016 GD No.1143 regarding disappearance of Diary of the HDFC Bank not the fraud reported by the accused person and that the matter is being investigated by the police authorities. It was further alleged that when colleague of the complainant had earlier lodged complaint before the National Stock Exchange of India against his illegal termination then the accused informed wrongly vide letter dated 28.04.2017 to the National Stock Exchange of India that his colleague is an accused and ex-employee of the HDFC Bank and he is also involved in the fraud. It was further alleged that vide letter dated 22.05.2017 written by accused to the National Stock Exchange of India in which it was intentionally mentioned that the complainant therein committed fraud of around Rs.1.86 crores and in this regard



criminal complaint was lodged before Kotwali Police Station, Patna.

7. It was further alleged that in order to ascertain the truth of the said letter, the colleague of O.P. No.2 sought information from the Kotwali P.S. than information was provided vide letter dated 03.07.2017 that HDFC Bank lodged Sanha on 29.07.2016, GD No.1143 regarding disappearance of Diary of the HDFC Bank.

8. It was alleged that there is no allegation of wrong committed by the complainant with the HDFC Bank lodged before the Kotwali P.S., however, accused person knowingly and intentionally furnished wrong information to the Reserve Bank of India and National Stock Exchange of India that the complainant is an accused in criminal case for alleged fraud involving an amount of Rs.1.86 crores. It was further alleged by the said wrong information given by the accused person purposely and intentionally, maligned the prestige and reputation of the complainant and not able to get suitable job.

9. The aforesaid complaint was referred to the Kotwali P.S. for investigation under Section 156(3) Cr.P.C. by order dated 11.09.2018 and the police on the basis of the said complaint instituted Kotwali P.S. Case No.651 of 2018 on 23.09.2018.



10. The complainant/informant/opposite party no.2 has alleged that for no fault of his, he was terminated from his service of HDFC Bank. Petitioner No1 and his employers wrongly stated before the National Stock Exchange of India that the opposite party no.2 is being investigated in a police case.

11. From the averments made in the FIR, it appears that the opposite party no.2 was removed from service for some irregularities having been committed by him.

12. Mr. P.K. Shahi, learned Senior Counsel appearing on behalf of the petitioners submits that assuming every allegations levelled in the FIR to be true, none of the offences under which the FIR has been lodged can at all be said to have been made out and this is an illustrative case of malicious prosecution by way of vindictive action on the part of an ex-employee of petitioner no.1. It is further submitted that the dispute raised by the informant in the present FIR is purely of the civil nature and opposite party no.2 has already filed Title Suit No.212 of 2017 challenging his termination order and in view of the same, the present investigation is nothing but the gross abuse of the process of law. Learned Senior Counsel for the petitioner further submits that out of three terminated employees, two terminated employees of HDFC Bank Ltd., i.e., Rakesh Kumar Verma (O.P. No.2) and



Praveen Kamal Kishore lodged separate FIR, i.e., Kotwali P.S. Case No.651 of 2018 and Kotwali P.S. Case No.326 of 2018 for the same incidence and levelled same allegations and accusation which are being alleged in the present FIR, and the higher officials of the HDFC Bank Ltd. were made accused in the said FIRs. Moreover, the third terminated employee, i.e., Priya Ranjan Srivastava chosen to file Criminal Case No.1077 (C) of 2018 before Civil Court, Patna for the same incidence and levelled same allegations which were levelled in the said two FIRs., i.e., Kotwali P.S. Case No.651 of 2018 (present FIR) and Kotwali P.S. Case No.326 of 2018. It is submitted that the learned ACJM-III, Patna vide order dated 10.01.2019 passed in Criminal Case No.1077 (C) of 2018 took cognizance against the higher officials of the HDFC Bank Ltd. Thereafter, the said cognizance order dated 10.01.2019 was challenged by the officials of the HDFC Bank Ltd. by filing separate quashing applications before this Court. This Court vide order dated 29.11.2021, passed in the case of Santosh Haldankar and others bearing Cr. Misc. No.37919 of 2019 and analogous cases quashed the cognizance order dated 10.01.2019, passed in Criminal Case No.1077 (C) of 2018 by learned ACJM-III, Patna. This Court relying on several decisions of Patna High Court as



well as the Hon'ble Supreme Court in order dated 29.11.2021 held in paragraphs-19 and 20 as follows:

*“19. Indian Penal Code, save and except some provisions specifically providing, therefore, does not contemplate any vicarious liability on the part of a party who is not charged directly for commission of an offence. Even complaint petition and material placed on record does not disclose commission of any offence and moreover necessary ingredients in order to constitute offence under Sections 199 and 200 of IPC is wanting in present case.*

*20. For the reason as stated above, the order dated 10.01.2019 passed in Complaint Case No. 1077 (C) of 2018, passed by learned ACJM-III, Patna, as far as same relates to petitioners is not sustainable either in fact or in law and is accordingly quashed.*

*The criminal miscellaneous petitions are allowed.”*

13. Mr. Shahi, the learned Senior Counsel for the petitioners further submits no allegations have been made against any of the petitioners that they had anything to deal with personally in discharge of their official duty. It is submitted that this Court vide order dated 29.11.2021 passed in the case of Santosh Haldankar and others bearing Cr. Misc. No.37919 of 2019 and analogous cases quashed the cognizance order dated 10.01.2019, passed in Criminal Case No.1077 (C) of 2018, by learned ACJM-III, Patna. The said order dated 29.11.2021 was challenged by the complainant before the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) Nos.1438-1445/2022, and the



Hon'ble Supreme Court vide order dated 25.02.2022 dismissed the said Special Leave petition and affirmed the order dated 29.11.2021, passed by this Court. The Hon'ble Supreme Court in the order dated 25.02.2022 held as follows:

*"We are not inclined to interfere with the impugned orders.*

*The special leave petitions are dismissed."*

14. After hearing learned counsel for the parties, from perusal of the materials available on record and the fact that similar matter has been quashed by this Court vide order dated 29.11.2021, passed in Cr. Misc. No.37919 of 2019 and other analogous cases, which was affirmed by the Hon'ble Supreme Court, the FIR pertaining to Kotwali P.S. Case No.651 of 2018 dated 23.09.2018 which has been instituted for under Sections 197, 198, 201, 409, 406, 499, 500, 504 and 120B of the Indian Penal Code is quashed.

15. These petitions are allowed.

**(Anjani Kumar Sharan, J.)**

Sanjay/-

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| AFR/NAFR          | NAFR       |
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