

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9757 of 2023

Arising Out of PS. Case No.-20 Year-2022 Thana- ECONOMIC OFFENCES, BIHAR
District- Patna

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Ranjit Kumar Rajak Son Of Late Mahendra Prasad Rajak R/O Vill.- Hanswar,
P.S.- Manihari, Distt.- Katihar, Presently At Flat No. B/108, Veenex Vihar
Apartment, Nitibagh, Jagdeo Path, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary, Department Of Home (POLICE)
Government Of Bihar, Patna.
3. The Additional Director General Of Police, Economic Offence Unit, Bihar,
Patna.
4. The Superintendent Of Police, Economic Offence Unit, Bihar, Patna.
5. The Deputy Secretary, Department Of Home (POLICE) Government Of
Bihar.
6. The District Magistrate, Patna Bihar
7. The Senior Superintendent Of Police, Patna Bihar
8. The Superintendent Of Police, Patna Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Santosh Kumar, Sr. Advocate Mr. Pawan Kumar, Advocate
For the E.O.U.	:	Mr. Vishwanath Prasad Sinha, Sr. Advocate
For the Opposite Party/s	:	Mr. Ajay Mishra, APP

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 12-05-2023

Heard learned counsel for the parties.

This application has been filed for quashing the final
form vide charge sheet no. 14/2022 dated 13.09.2022 submitted in
a case being Economic Offence Unit P.S. Case No. 20/2022
registered under Sections 420, 467. 468, 120B of the Indian Penal



Code, Section 66 of the Information and Technology Act and Section 3/10 of the Bihar Examination Control Act.

As per prosecution, a written report before the Dy. S.P.-cum-Station House Officer, Economic Offence Police Station, Patna stating that 67th Combined Competitive Preliminary Examination was scheduled on 08.05.2022. The E.O.U., Bihar, Patna received information that the question paper was made viral on social media even before the examination started. It was further informed that candidates at the examination centre, Veer Kunwar Singh University, Bhojpur, boycotted the examination. The pictures of question paper, OMR Sheet and many videos are viral in this regard. It was further disclosed that copy of question paper has already been sent to Controller of Examination, Bihar Public Service Commission. Therefore, an F.I.R. was lodged against unknown group for making the question paper viral before the examination.

Though, this application is heard at length on the last few dates and I found no material against the petitioner, but today in course of hearing, it has been pointed out that the 11 page discharge application was filed on 28.03.2023. The same was heard by the court below on 29.03.2023 and the same was dismissed on 29.03.2023 and the charges were framed on



31.03.2023. The learned counsel appearing for the petitioner has submitted that the disposal of the discharge application of the petitioner in such a hurry is complete denial of justice and is against the law laid down by Hon'ble Supreme Court in the recent judgment of ***Kanchan Kumar vs. The State of Bihar (2022) 9 SCC 577.***

Mr. Vishwanath Prasad Sinha, learned senior counsel appearing for the Economic Offence Unit, has submitted that the impugned order is a well reasoned order and the same should be sustained, he has taken this Court to the various materials in the case diary in support of this case.

*I have considered the submissions of both the parties, the Hon'ble Supreme Court in the case of **Kanchan Kumar vs. State of Bihar (supra)**, following paragraphs are quoted hereinbelow:*

*13. The threshold of scrutiny required to adjudicate an application under [Section 227](#) of the Cr.P.C., is to consider the broad probabilities of the case and the total effect of the material on record, including examination of any infirmities appearing in the case. In *Prafulla Kumar Samal (supra)*, it was noted that:*

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under [Section 227](#) of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.



(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a Post Office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.” (emphasis supplied).

14. [In Sajjan Kumar v. Central Bureau of Investigation¹⁰](#), the Court cautioned against accepting every document produced by the prosecution on face value, and noted that it was important to sift the evidence produced before the Court. It observed that:

“21. On consideration of the authorities about the scope of [Sections 227](#) and [228](#) of the Code, the following principles emerge:

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of [Sections 227](#) and [228](#), the court is required to evaluate the material and 10 (2010) 9 SCC 368. documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the



evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case...” (emphasis supplied).

15. Summarising the principles on discharge under [Section 227](#) of the Cr.P.C, in [Dipakbhai Jagdishchandra Patel v. State of Gujarat](#),¹¹ this Court recapitulated:

“23. At the stage of framing the charge in accordance with the principles which have been laid down by this Court, what the court is expected to do is, it does not act as a mere post office. The court must indeed sift the material before it. The material to be sifted would be the material which is produced and relied upon by the prosecution. The sifting is not to be meticulous in the sense that the court dons the mantle of the trial Judge hearing arguments after the entire evidence has been adduced after a fullfledged trial and the question is not whether the prosecution has made out the case for the conviction of the accused. All that is required is, the court must be satisfied that with the materials available, a case is made out for the accused to stand trial. A strong suspicion suffices. However, a strong suspicion must be founded on some material. The material must be such as can be translated into evidence at 11 (2019) 16 SCC 547. the stage of trial. The strong suspicion cannot be the pure subjective satisfaction based on the moral notions of the Judge that here is a case where it is possible that the accused has committed the offence. Strong suspicion must be the suspicion which is premised on some material which commends itself to the court as sufficient to entertain the prima facie view that the accused has committed the offence.”

The observation of the Court is that the trial court cannot act merely as a post office or a mouth piece of the prosecution, but has to consider the broad probabilities of the case and the total effect of the material on record, of the evidence and the document produced before the Court. In my view the trial court while rejecting the application of discharge has acted as a mere Post Office and has not applied its mind to the grounds raised in 11 page discharge application.



Discharge is a valuable right and it cannot be denied to the petitioner in a summary manner.

This kind of the consideration of the discharge application is not permissible.

This application is allowed and the matter is remitted back to the court below with a direction to consider the discharge application of the petitioner afresh, after hearing the counsel for the parties i.e., learned counsel for the petitioner- accused and the counsel for the Economic Offence Unit. Thereafter, considering the materials available on record, the trial court will apply its own mind and pass an order in accordance with law and the law laid down by the Hon'ble Supreme Court in the case of ***Kanchan Kumar vs. State of Bihar (supra)***.

With the aforesaid observation and direction, this application is allowed.

(Sandeep Kumar, J)

Ranjeet/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

