

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4710 of 2019

Arising Out of PS. Case No.-574 Year-2011 Thana- KATIHAR NAGAR District- Katihar

1. Shankar Kumar Verma, son of Late Avdhesh Kumar Verma resident of Bakhri, P.S. - Kursakanta, District – Araria.
2. Amar Kumar Verma @ Amar Kumar Sinha, son of Awadhesh Kumar Verma Both are resident of Bakhri, PS Kursakanta District Araria

... .. Petitioner/s

Versus

1. The State of Bihar
2. Jahangir Alam Son of Md. Shamshul Haque Resident of Mohalla Chandpur, P.S. Barari, District- Katihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajit Kumar Singh, Advocate.

For the Opposite Party/s : Mr. Ajit Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 25-11-2025

Heard learned counsel appearing on behalf of the petitioners and learned APP for the State.

2. The petitioners have preferred the application under Section 482 of the Cr.P.C. for quashing of the order dated 04.08.2018 passed by the learned Sessions Judge, Katihar in Criminal Revision No. 67 of 2016, whereby and whereunder, learned Sessions Judge has dismissed the revision petition and affirmed the order dated 18.05.2016 passed by the learned ACJM-I, Katihar in G.R. Case No. 2909 of 2011 in Katihar Town P.S. Case No. 574/2011 whereby the learned Magistrate has rejected the petition of the petitioners filed on 08.06.2015 under Section 239 Cr.P.C. to discharge them.



3. The prosecution story, in brief, is that the informant, Jahangir Alam, submitted a written report before the Officer-in-Charge, Town Police Station, Katihar alleging that one Pravendra Kumar Sinha @ Praveen of Bhagalpur, who came in contact with him through the petitioners serving in the Indian Army, induced him by assuring a Government job in the Agriculture College, Sabour, Bhagalpur on payment of Rs. 2 lakhs, and on the same pretext collected substantial amounts from about fourteen other persons as well. Thereafter, Pravendra Kumar Sinha issued appointment letters purportedly from the Indian Agriculture Research Council, New Delhi and Rajendra Krishi Vishwavidyalaya, Pusa, Samastipur, Bihar, but when the informant and the other victims approached the concerned Agriculture College on the strength of the said appointment letters, they discovered that the documents were forged and they had been cheated; and that some of the victims also presented cheques given to them in connection with the purported appointments before their respective bankers.

4. Learned counsel appearing on behalf of the petitioners submitted that the sole allegation attributed to the petitioners is that the co-accused, Pravendra Kumar Sinha, allegedly came in contact with the informant through them, and



beyond this bald assertion, no other overt act or material has been alleged against them. Learned counsel further submitted that both the petitioners were students of D.S. College, Katihar during their early academic years, but petitioner no.1 permanently left Katihar in the year 2000, to join the Indian Army at Lucknow and petitioner no.2 had left Katihar, in 1997 itself upon joining the Indian Army at Jabalpur, whereas the alleged occurrence forming the basis of Katihar Town P.S. Case No. 574 of 2011 had occurred on 06.10.2011, i.e., after about 11 and 14 years respectively of their service in the Army, making their involvement inherently improbable. It is further submitted that the petitioners and the informant were complete strangers, and no prudent person would hand over such a substantial amount to unknown person. The prosecution has not produced a single piece of documentary evidence to show how or when the alleged cheating occurred, nor is the FIR clear allegation giving the date of the alleged monetary transaction or the date on which the purported appointment letters were issued. In course of investigation, several witnesses were examined, including one Monica, who only stated that the co-accused was her tenant, a defaulter in rent, and had taken Rs. 40,000/- from her on the pretext of arranging a job, but she did not implicate the



petitioners at all. Learned counsel further argued that, in the ordinary course, everyone is aware of the prescribed procedure for securing government employment, and the allegation of parting with money for such purpose appears wholly unfounded. The petitioners, being in Army service, had no knowledge of the police case. The co-accused Pravendra Kumar Sinha faced full-fledged trial in Trial No. 4732/2013 arising out of G.R. No. 2909/2011 and was acquitted of all the charges by judgment dated 11.09.2013. Even in absence of any incriminating material against the petitioners on record, a chargesheet has been submitted under Sections 420, 409, 467, 468 and 471 of the Indian Penal Code. It is also pointed out that the petitioners had earlier approached this Hon'ble Court in Cr. Misc. No. 45907 of 2012 seeking pre-arrest bail, which was allowed *vide* order dated 05.04.2013.

5. *Per Contra*, Mr. Ajit Kumar, learned APP for the State submitted that on the basis of the sufficient material collected against the petitioners in Paragraph Nos. 86, 87 and 89 of the case diary, as has been mentioned by the Revisional Court, charge sheet was submitted under Sections 420, 409, 467, 468 and 471 of the Indian Penal Code. The petitioners' complicity cannot be ruled out and as such rejection of the



discharge petition filed on 08.06.2015 under Section 239 Cr.P.C. is based on the evidences that the petitioners knowingly participated in the crime and cheated several persons including the informant.

6. Heard the parties.

7. Before proceeding to decide the present case, I find it proper to reproduce the provisions of Section 239 Cr.P.C. as under:

“Section 239 of the Cr. P.C. :- When accused shall be discharged- If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.”

8. From perusal of the procedure prescribed under Section 239 Cr.P.C., the learned Magistrate, if *prima facie*, finds that the case is being prosecuted without any evidence, such criminal prosecution against the accused must be interfered. He is required to be discharged in absence of any evidence collected against him.

9. Law in this regard is well settled as in the case of *State of Karnataka v. L.Muniswamy* reported in (1977 Cr.LJ 1125), wherein it was held that that “if no reason at all has been assigned by the trial Court for refusing to discharge the accused



petitioners, such order suffers from serious infirmity."

10. In the present case, co-accused, namely, Pravendra Kumar Sinha, against whom it has been alleged that he had issued fake appointment letters to the informant and several persons who were cheated after accepting considerable amount from them, has already been acquitted of all the charges on the basis of 'no evidence' in Trial No. 4732/2013, arising out of G.R. No. 2909/2011, by judgment dated 11.09.2013. So far as the petitioners are concerned, it is admitted that both of them are own brothers and they are Constable in Indian Army. Merely acquaintance with the accused person namely Pravendra Kuamr Sinha who has been acquitted, will not amount to conclude that they had actively participated in the crime.

11. I find that rejection of discharge petition filed by the petitioners on 08.06.2015 under Section 239 Cr.P.C. by the learned Chief Judicial Magistrate vide order dated 18.05.2016 and the same having been affirmed by the Revisional Court vide order dated 04.08.2018 cannot be sustained also on the ground that the co-accused Pravendra Kumar Sinha against whom direct allegation has been made, has been acquitted by the learned trial court vide judgment dated 11.09.2013 in G.R. Case No. 2909/2011, Katihar Town P.S.



Case No. 574/2011 and the petitioners have a better case, wherein, no sufficient evidence has been collected against them. Hence, continuation of criminal proceeding against the petitioners, in such circumstances, would amount to abuse of process of the court and the law. The order dated 04.08.2018 passed by the Revisional Court and the order dated 18.05.2016 passed by the learned Chief Judicial Magistrate, Katihar are hereby set aside and quashed.

12. The quashing application, accordingly, stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.12.2025
Transmission Date	03.12.2025

