

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 193 of 2024

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

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The State of Bihar through the Superintendent of Police, Economic Offences
Unit, Bihar, Patna

... .. Petitioner/s

Versus

Ranjit Kumar Rajak, Son of Late Mahendra Prasad Rajak, Resident of
Village- Hanswar, P.S.- Manihari, District- Katihar. At present residing at Flat
no. B/108, Veenex Vihar Apartment, Nitibagh, Jagdeo Path, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms Soni Shrivastava
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

CAV JUDGMENT

Date : 09-01-2025

This revision petition has been preferred by the petitioner against the order dated 19.07.2023 passed by the Court of Sub Judge I -cum- ACJM I -cum- Assistant District Sessions Judge II, Patna in EOU PS Case No 20 of 2022 whereby and whereunder the learned Court below allowed the application filed by the opposite party under Section 239 of the Cr P C and discharged him from the said case which has been instituted for the alleges offence punishable under Sections 420, 467, 468, 120B of the IPC, Section 66 of the IT Act and Sections 3/10 of the Bihar Examination Control Act.



2 Facts of the case are that the FIR was lodged against unknown persons alleging therein that on 08.05.2022, the 67th BPSC Examination was being conducted across various centers in the State of Bihar. It is stated that an information was received that question paper has gone viral on social media even before the examination started. It was further informed that the candidates at the examination center falling in Veer Kunwar Singh College, Bhojpur at Ara boycotted the examination. The pictures of question paper and OMR sheet were made viral. It was further stated that copy of the question paper has also been sent to the Controller of Examination of BPSC.

3 On the basis of said complaint, FIR was lodged against unknown group for making the question paper viral before the examination. After completion of investigation, charge sheet was filed against the opposite party and other accused persons for the alleged offence, as mentioned hereinabove.

4 On the basis of the statement of the co-accused Shakti Kumar, Awinash Kumar, it was found that the opposite party was also involved in the alleged crime. He was in constant touch with the co-accused Shakti Kumar, Manoj Kumar, Awinash Kumar and Rajesh Kumar. It was further found that in order to destroy the



evidence, the opposite party also broke his mobile phone handset which was used by him on the date of incident, i e, 08.05.2022.

5 After submission of charge sheet, an application under Section 239 of the Cr P C has been filed by the opposite party before the learned trial Court. The learned trial Court, initially, vide order dated 29.03.2023, rejected the said application filed by the opposite party. The order dated 29.03.2023 (Annexure 6) has been assailed by the opposite party before this Court. A coordinate Bench of this Court in Cr Misc No 9757 of 2023, vide its order dated 12.05.2023, allowed the petition and remitted back the matter to the Court below with a direction to consider the discharge application of the opposite party afresh. After hearing the counsel for both the parties, it was observed by the coordinate Bench in the said order that while rejecting the application, the learned Court below has acted as a mere post office and has not applied its mind to the grounds raised in the discharge petition. Thereafter, the learned trial Court, after hearing both the parties, passed the impugned order dated 19.07.2023 and discharged the opposite party. Hence, this revision petition has been preferred.

6 It is submitted by the learned counsel for the petitioner that the learned Court below, while passing the impugned order, has not appreciated the facts in correct perspective and according



to the counsel, there are enough materials against the opposite party to make a very strong and grave suspicion of guilt and the materials are, thus, sufficient to proceed against him. According to the counsel, the learned Court below ought not to have allowed the discharge application of the opposite party. Relying on the judgment passed by the Supreme Court in the cases of *Superintendent and Remembrancer of Legal Affairs, West Bengal -Versus- Anil Kumar Bhunja & Others (1979) 4 SCC 279* and the *State of Delhi -Versus- Gyan Devi and Others (2000) 8 SCC 239*, it is submitted by the counsel that at the stage of framing of charges, the Magistrate has to see whether the facts alleged and sought to be proved by the prosecution prima facie disclosed the offence on general consideration of the materials placed by the investigating agency. According to the counsel, at this stage, the trial Court is not to examine and assess the detailed material placed on record by the prosecution nor is it for the Court to consider the sufficiency of the material to establish the offence alleged against the accused persons. According to the counsel, there are sufficient materials available on record on the basis of which prima facie alleged offence has been made against the opposite party. Therefore, it is prayed by the learned counsel for



the petitioner that the impugned order passed by the Court below is liable to be set aside.

7 I have heard learned counsel for the petitioner, gone through the material available on record and also perused the impugned order dated 19.07.2023.

8 Undisputedly, in the FIR, the name of the petitioner is not mentioned. According to the case of the prosecution, it is alleged that co-accused Shakti Kumar, Awinash Kumar and Rajesh Kumar, in their confessional statements, disclosed the name of the opposite party and stated that the opposite party was also involved in the alleged crime. Perusal of the impugned order clearly shows that the co-accused Rajesh Kumar, in his confessional statement in case diary No 4 at paragraph 58 has categorically stated that he does not know the opposite party Ranjit Kumar. However, he heard about him by the co-accused Awinash Kuymar @ Toofani. Perusal of the impugned order further shows that Awinash Kumar @ Toofani, in his statement, which is available in case diary No 40 in paragraph 442, has stated that he also never personally met the opposite party Ranjit Kumar nor ever contacted him directly and he had heard about him from one Ajay Bharti. The impugned order further shows that the statement of said Ajay Bharti has not been recorded by the Investigating Officer. The learned counsel



for the petitioner has also fairly admitted this fact that the statement of Ajay Bharti has not been recorded by the prosecution till today. Therefore, the learned Court below rightly arrived on the conclusion that on the basis of confessional statement of Rajesh Kumar and Awinash Kumar @ Toofani, no offence is made out against the opposite party.

9 According to the prosecution, the opposite party was also in touch with the co-accused Shakti Kumar and as per CDR analysis and tower location, both were in touch with each other. However, the statement of co-accused Shakti Kumar, which is available in case diary No 37 at paragraph 390 and case diary No 40 at paragraph 443 also shows that he has not met personally with the opposite party. Thus, the learned trial Court rightly arrived at the conclusion that the statement of co-ccused Shakti Kumar is also not acceptable against the opposite party for the alleged crime.

10 Perusal of the impugned order further shows that the learned Court below also observed that there is no mention in the case diary with respect to any CDR or message either at the time of incident or immediately thereafter or before that. It is further observed by the learned Court below that the said communication were done much prior to the alleged date of incident. Merely, on



the ground that the opposite party was in touch with co-accused Shakti Kumar (which was much prior to the date of incident), it cannot be said that the opposite party was also involved in the alleged crime.

11 The prosecution also relied on the statement of Manoj Kumar which is available in case diary No 1 at paragraph 4. However, the said Manoj Kumar, a Class-IV employee of the BPSC, was neither made a witness nor was made an accused in the case. Therefore, the learned Court below again rightly arrived on the conclusion that the alleged statement of Manoj Kumar, who is neither a witness nor an accused, is also not acceptable against the opposite party.

12 Considering the entire material available on record, as discussed above, I am also of the view that there is no any legal material available on record on the basis of which any alleged offence can be made out against the opposite party. The impugned order passed by the learned Court below is a reasoned order based upon the material available on record. I do not find any ground on the basis of which it can be said that the impugned order is perverse or against the material available on record.

13 Thus, in the considered view of this Court, the learned Court below rightly allowed the application filed by the



opposite party under Section 239 of the Cr P C and discharged him from the alleged offence.

14 Resultantly, I do not find any merit in this revision petition which is, accordingly, dismissed at the stage of admission itself.

(Arvind Singh Chandel , J)

M.E.H./-

AFR/NAFR	NAFR
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