

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27343 of 2024**

Arising Out of PS. Case No.-2042 Year-2014 Thana- GAYA COMPLAINT CASE District-
Gaya

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Kitti Nawani @ Kishore Nawani S/o Late Mohan Lal Nawani R/o 12/5, SOI-
33 Sukhumunit Road, Klongton Nua, Vattan, Bangkok Thailand Dang Udom,
Klongton Nua, District-Waltana, Bangkok-10110 Thailand

... .. Petitioner

Versus

1. The State of Bihar
2. Buddhist Thai Bharat Society through its General Secretary, Ratneshwar Chakma S/o Sri Sanri Kumar Chakma Registered office at village- Mastipur, South of Main Temple, P.S. - Bodh Gaya, Resident at Buddhist Thai Bharat Society, village - Mastipur, South of Main Temple, P.S. - Bodh Gaya, Distt. - Gaya, Pin 824231

... .. Opposite Parties

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Appearance :

For the Petitioner	:	Mr. P.N. Shahi, Senior Advocate Mr. Rishi Raj Raman, Advocate
For the State	:	Mr. Anuj Kumar Shrivastava, APP
for the O.P. No.2	:	Mr. Rana Vikram Singh, Advocate

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
CAV JUDGMENT
Date : 17-06-2025**

The present quashing application/petition preferred
u/s 482 of the Code of Criminal Procedure (in short 'CrPC') on
behalf of the petitioner for quashing of the entire proceedings
arising out of Complaint Case No. 2042 of 2014, wherein
cognizance has been taken against the petitioner/accused for
the offences punishable under Sections 406, 504, 420 and



120-B of the Indian Penal Code (in short 'IPC') by the court of learned A.C.J.M., Gaya.

2. Allegation as averred in complaint case, suggest that "**Buddhist Thai Bharat Society**" (in short 'Society') is a charitable welfare society duly registered under the Societies Registration Act, where petitioner was inducted initially as member of society, who in due course of time, elected its General Secretary. It is alleged that petitioner in capacity of General Secretary of the Society committed numerous illegal acts with malafide intention, which caused wrongful loss to the Society and wrongful gain to himself. It is alleged that petitioner received donations and contributions made for the society in personal capacity and later on transferred the said money to the account of society by showing it as a loan given by him to the society and, therefore, he committed criminal breach of trust and also misappropriation of the fund of the society. As per the audit report for the year 2008-09, a sum of Rs. 25,28,646/- was shown as loan to the society, whereas in actual, the aforesaid amount was donated to society by different donors. It is



further alleged that petitioner inducted his relatives in the governing body of society with malicious intention of securing majority of his own men in the governing body and thus, changed the democratic structure of the society for his wrongful personal gain. It is submitted that petitioner under conspiracy dishonestly removed several original documents, registers, sanctioned buildings plan, bank passbooks, bank statement, cheque books etc. of the society and despite of repeated requests did not return the same to O.P. No.2 and dishonestly committed theft. The petitioner and accused no.2 did not convene the general body meeting and did not conduct the election. It is also alleged that petitioner committed cheating and fraud with respect to his personal details in his passport with mala fide intention of obtaining wrongful gain for himself from the Government of India. Allegedly, the petitioner is a citizen of Thailand and possesses two passports in which his date of birth is the same i.e. 18.11.1947 but in the declaration regarding place of birth his one of the passports, he mentioned 'Karanchi' then in India as his place of birth and in another passport, same is being mentioned as



‘Bangkok’, (Thailand). It is also alleged that activities of the petitioner and accused no.2, namely Sarju Prasad were protested by O.P. No.2 and other members of the society, as they fraudulently interpolated the rules and regulations of the society to make them office bearers/members of governing body permanently, which was inserted in memorandum of society without informing the members of the society in the year 2014 but same was fraudulently inserted antedated showing 29.02.2008, which was informed to I.G. Registration, Patna on 07.04.2014. It is also alleged that petitioner along with accused no.2 in conspiracy, purchased several acres of “Parwana land” in Bodh Gaya on 15.05.2014, 16.06.2014 and 24.07.2014 by means of cheating the members of the Scheduled Castes community, who were given land by the Government. It is pointed out that in all aforesaid purchase, the petitioner introduced himself as citizen of India, whereas in actual he is citizen of Thailand and thus committed cheating with the government authority also. It is further alleged that upon the repeated demands of the members of the society, the Annual General Meeting of



society was held on 25.10.2024 in which Ratneshwar Chakma was unanimously elected as Secretary of the society (O.P. No.2) and, thereafter, he assumed the charge on 07.11.2014. The petitioner and accused no.2 did not participated in the said meeting. After assuming the charge of Secretary, the O.P. No.2 demanded the petitioner to hand over the documents of the society but, instead of returning the relevant documents of the society to O.P. No.2, he wrote a letter on 25.11.2014 by using very defamatory and humiliating words. In the meantime, it came to the knowledge of the society that accused persons got instituted a Title Suit No.81 of 2014 in the court of Munsiff-II, Gaya through some strangers, who are not the members of the society, whereafter the O.P. No.2 appeared in the suit on 01.12.2014 and requested the learned court to add him as necessary defendant. It is alleged that when the accused persons came to know about such step taken by O.P. No.2, they sent two unknown persons, who intercepted the O.P. No.2 when he was going to temple on 02.12.2014 at about 6:00 PM and threatened him to face dire consequences if he take any



steps against the petitioner and accused no.2 namely, Sarju Prasad. They also threatened O.P. No.2 to resign from the society otherwise they will kill him alongwith P. Bodhnanda Munni, associate /member of the Society.

3. It is submitted by Mr. P.N. Shahi, learned senior counsel appearing for petitioner that present complaint has been filed by the Society through its so-called General Secretary, Ratneshwar Chakma. It is submitted that no resolution of society appears annexed with complaint petition as to prosecute petitioner, therefore, the present prosecution cannot be said to be instituted in capacity of General Secretary of the Society rather can be treated as a personal complaint of Ratneshwar Chakma, having a biased and partitioned approach towards petitioner from very inception. Therefore, on this score alone, the cognizance taken by learned A.C.J.M.-II, Gaya for the offences punishable under Sections 406, 504, 420 and 120-B of the IPC appears bad in eyes of law and therefore, same be quashed/set aside.

4. It is also submitted by Mr. Shahi that most of the witnesses of the complaint petition are not members of the



society and they are outsiders having no idea of the internal account. It is also submitted by Mr. Shahi justifying audit report of the year 2008-09 towards loan to the society by petitioner for a sum of Rs.25,28,644/- that aforesaid amount received by petitioner in US Dollars under custom clearance from Thailand and upon depositing the amount in the bank and converting it in Indian currency, it was given loan to the society. The audit report was already approved by the Executive Committee of the society. It is also submitted that it is a very general type of allegation, as the complainant failed to point out even a single donor who donated into the personal account of the petitioner. It is submitted that the transaction of aforesaid money was channelized through authorized agent namely, 'Thomas Cook'. It is further submitted by Mr. Shahi that as far as allegation *qua* non-returning of original documents, registers, building plans, bank passbook, bank statement, cheque books etc. are concerned, same does not appear sustainable in view of the fact that all these documents were kept in the office of the society, but same were stolen, when petitioner was not



available in India. The occurrence of theft was reported to the petitioner by one “Khayap” over phone, who also sent photographs of the occurrence to the petitioner, whereafter petitioner directed the officer of the society to lodge FIR.

5. Arguing further, Mr. Shahi submitted that the third and major allegation regarding cheating and fraud committed by petitioner *qua* concealing his personal details regarding place of birth in his passport also appears wrong and baseless. It is submitted that regarding the same issue, the complainant had filed a writ application before Hon’ble Delhi High Court bearing WP (C) No.7190 of 2016, where petitioner explained the entire truth through his counter affidavit in which he had stated that he was born in Karachi prior to partition and after partition, his family moved to India in the course of mass migration. After migration, his family settled in Pune, where the petitioner completed his studies and was issued Indian Passport on the basis of which, he went to Thailand in the year 1965 for the purpose of business. After sometime, he gave an application for citizenship of Thailand, which was accepted in the year 1983 and,



thereafter, he surrendered his Indian Passport to the Indian Embassy. After obtaining the “Thai” passport, he obtained Overseas Indian Citizens Card on 10.08.2007. In the course of renewal of his Thai passport due to typographical error, the place of birth of the petitioner was written as ‘Bangkok’ in the place of ‘India’. When this matter was brought into the notice of Thai Government, it was immediately corrected and new passport was also issued in which the place of birth has been correctly mentioned as India. All these corrections were duly accepted by the Ministry of External Affairs in aforementioned writ petition and on the basis of the said fact, the writ petition filed by compliant was withdrawn on 23.05.2017 and, therefore, this allegation cannot be permitted to be raised again through this complaint petition. Raising such allegation in view of order dated 23.05.2017 as passed in WP (C) No. 7190 of 2016 only reflect the malicious approach of complainant/O.P. No.2 towards petitioner, suggesting that present complaint was brought with ulterior and oblique motive just to tarnish the image of petitioner, who served the society and fulfilled all his commitments for several years.



6. It is further submitted by Mr. Shahi that as far as allegation regarding antedating the clauses in the rules and regulations of the society, making the Governing Body of the society to be a permanent body is concerned, same also appears wrong and unfounded in view of the certificate which has been issued by I.G. Registration vide its Letter No.345 dated 07.04.2014, where aforesaid amendment was made on the basis of the resolution of the General Body meeting dated 29.02.2008 and 31.03.2008.

7. It is submitted that a copy of the aforesaid resolution was obtained under RTI from the office of I.G. Registration, which has been provided vide Letter No.470 dated 15.05.2014 issued from the office of the Assistant Inspector, General Registration, Patna, Bihar after perusal of which, it appears that same has not been signed by this petitioner. The allegation regarding antedating is also wrong because after a lapse of six years from the date of submission of resolution, the amendment was allowed by the I.G. Registration and the certificate was issued on 07.04.2014 and, therefore, it cannot be said that the amendment was



sent on 07.04.2014 itself. It is submitted that this fact was also wrongly presented before the court, which was overlooked while taking cognizance against petitioner.

8. It is also submitted by Mr. Shahi that the fifth and the major allegation, which raised against this petitioner the purchase of parwana land from members of the scheduled castes community, it is pointed out that same is the subject matter of FIR, which was lodged as Bodh Gaya P.S. Case No.334 of 2014 dated 08.10.2014.

9. It is submitted that aforesaid FIR was lodged on the basis of the written information of Rajesh Kumar alias Umesh Kumar, a social worker, who filed a petition in the court of learned Special Judge, SC/ST in which he has stated that the complainant is hatching a conspiracy to remove the petitioner from society and with the said intention, they forged the signature of Rajesh Kumar alias Umesh Kumar to lodge the FIR. It is pointed out that the police after investigation found aforesaid case false but this fact was not raised before the learned court below through complaint petition. It is also pointed out that the petitioner had no role in



filing of Title Suit No.81 of 2012, where the prayer made by the complainant to implead as defendant has also been rejected by learned court below. It is also pointed out that advancing threat to kill by some unknown persons is to only aggravate the allegation otherwise having no connection with this petitioner.

10. It is further submitted by Mr. Shahi that the learned court below proceeded in this matter in a very perfunctory manner, where without service report of the summons, the court below directed for issuance of non-bailable warrant of arrest against the petitioner. It is also pointed out that the petitioner also appeared before the learned court below through his advocate and filed his petition under Section 205 of the CrPC along with his *vakalatnama* but, without deciding aforesaid petition of personal exemption, the learned court below issued the process under Section 82 of the CrPC against petitioner. It is also pointed out that in the meanwhile, the petitioner has filed anticipatory bail petition in the court of learned Sessions Judge, Gaya, bearing ABP No.2530 of 2017, which was rejected on



26.03.2018. It is submitted that the petitioner was declared absconder on 03.11.2018. It is also submitted by Mr. Shahi that petitioner is a citizen of Thailand and complaint has been filed by giving his address of Bangkok, where summons issued by the court were never served upon. It is pointed out that petitioner, who is a Thai citizen apprehending different types of threats from the complainant due to which he is unable to collect the document related to his case and to present his defence in better manner and while he was in the process of collecting documents, covid-19 pandemic broke out and the petitioner could not take steps to challenge the proceedings of the learned court below. However, the petitioner filed Cr. Misc. No.11305 of 2021 before this Hon'ble Court for challenging the order taking cognizance dated 04.11.2016 but the case was dismissed for non-prosecution vide order dated 12.05.2022.

11. While concluding argument, Mr. Shahi submitted that the petitioner due to some misunderstanding resigned from his post from Managing Committee of Society, where the Chief Abode, the main donor of the society



requested to the petitioner to withdraw his resignation and resume to the respective post in the Managing Committee, where it is specifically mentioned in the letter dated 05.07.2013 that after looking at the past performance of the petitioner, dedication, honesty and loyalty towards the society, the resignation as submitted by him was declined to be accepted.

12. It is submitted that the present complaint also appears to be filed with oblique motive and malicious intention as to prevent the petitioner to come to India and to participate in the affairs of the society. In view of all such facts, the dispute is primarily appears to be arising out of election of General Secretary of the Society, where all allegations discussed aforesaid raised with oblique motive and also same does not appear to constitute any cognizable offence on its face and, therefore, the present impugned order of cognizance be quashed/set aside in view of legal ratio as available through **State of Haryana vs. Bhajan Lal & Ors.** reported in **1992 Supp (1) SCC 335.**

13. At this stage, it would be apposite to mention



that the further proceeding of the court below in connection with Complaint Case No.2042 of 2014 was stayed vide order dated 15.07.2024 as passed by one of the learned co-ordinate Bench of this Court.

14. The aforesaid stay order was challenged by O.P. No.2 before the Hon'ble Supreme Court but, same was dismissed through Special Leave Petition (Crl.) No.13666 of 2024.

15. It would be apposite to reproduce the order dated 05.11.2024 as passed by Hon'ble Supreme Court through Special Leave Petition (Crl.) No.13666 of 2024, which is as under:-

“UPON hearing the counsel, the Court made the following

O R D E R

A number of issues and contentions have been raised. However, we are not inclined to issue notice in the present special leave petition, as it is open to the petitioner, Buddhist Thai Bharat Society, to file an appropriate application before the High Court where the matter is pending. If any such application is filed, the same will be considered and decided expeditiously and in accordance with law. If required, the petitioner



may also make a mention in the matter before the High Court.

Recording the aforesaid, the special leave petition is dismissed. Pending application(s), if any, shall stand disposed of.”

16. In view of aforesaid observation of the Hon’ble Supreme Court, the matter was mentioned and was taken up for final hearing with the consent of the parties.

17. It would be apposite to reproduce the order dated 23.05.2017 passed by the Hon’ble High Court of Delhi in WP(C) No.7190 of 2016, which is as under:-

“1. Learned counsel appearing for Ministry of External Affairs has filed the counter affidavit. The same is taken on record.

2. Learned counsel for Ministry of External Affairs submits that there is no error in the documents issued by the Ministry and error, if any, may be with the passport that was issued by the Government of Thailand.

3. Learned counsel for respondent No.3 submits that the error in the documents issued by the Government of Thailand has already been corrected by the said Government.

4. Learned counsel for the petitioner submits that in view of the affidavit of the Ministry of External Affairs, he does not wish to



press the present petition.

5. The writ petition is accordingly dismissed as not pressed for.”

18. It would further be apposite to reproduce para-102 of **Bhajan Lal case** (supra), which is as under:-

“**102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.



(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the



Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

19. It is submitted by Mr. Rana Vikram Singh, learned counsel appearing for O.P. No.2 that the allegation against petitioner being the Secretary is serious *qua* misappropriation of the fund and cheating of renowned religious society. It is submitted that the petitioner almost admitted that he received donations in private capacity and as he received donations in dollars, it was accepted in his own account just to get it convert into rupees. It is also submitted that the petitioner has admitted the purchase of the parwana land of Scheduled Castes community for which, a police case



was lodged. It is also submitted that non-supply of documents, registers etc. was denied under garb of theft committed in the office of the society. It is submitted that in view of all such *prima facie* admissions, this petition is not liable to be allowed, as the defence, which has been relied upon or raised by the petitioner cannot be looked into at this stage as same is the matter of trial.

20. In support of his submission, learned counsel has relied upon the legal report of Hon'ble Supreme Court as available through **Central Bureau of Investigation vs. Aryan Singh and Ors.** reported in **(2023) 18 SCC 399**, where paragraph Nos.-5 and 6 appear relevant, which are as under:-

"5. Having gone through the impugned common judgment and order [Aryan Singh v. CBI, 2022 SCC OnLine P&H 4158] passed by the High Court quashing the criminal proceedings and discharging the accused, we are of the opinion that the High Court has exceeded in its jurisdiction in quashing the entire criminal proceedings in exercise of the limited powers under Section 482 CrPC and/or in exercise of the powers under Article 226 of



the Constitution of India.

6. From the impugned common judgment and order [Aryan Singh v. CBI, 2022 SCC OnLine P&H 4158] passed by the High Court, it appears that the High Court has dealt with the proceedings before it, as if, the High Court was conducting a mini trial and/or the High Court was considering the applications against the judgment and order passed by the learned trial court on conclusion of trial. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under Section 482 CrPC, the Court is not required to conduct the mini trial. The High Court in the common impugned judgment and order has observed that the charges against the accused are not proved. This is not the stage where the prosecution/investigating agency is/are required to prove the charges. The charges are required to be proved during the trial on the basis of the evidence led by the prosecution/investigating agency.”

21. It is further submitted by Mr. Singh that on earlier occasion a quashing petition was filed by the petitioner to quash the cognizance order and entire proceedings



through Cr. Misc. No.11305 of 2021 dated 12.05.2022 but, same was dismissed for default as none appeared on behalf of petitioner when matter was taken up on board. It is pointed out that instead of restoring the aforesaid criminal miscellaneous, the petitioner chooses to file the present petition without any justification. It is also pointed out that the anticipatory bail petition of petitioner was rejected by this Court with a direction to surrender before the court below but, even after knowing the direction of this Court, the petitioner intentionally did not appear before the court below and thereafter, a proceeding under Section 82 and 83 of the Code of Criminal Procedure (in short 'CrPC') was initiated against petitioner and he was declared absconder by the learned trial court. It is also submitted that being an absconder or proclaimed offender, petitioner is not entitled for any kind of consideration/relief in view of the legal report of the Hon'ble Supreme Court as available through **State of MP vs. Pradeep Sharma** reported in **(2014) 2 SCC 217**, which was also followed in **Srikant Upadhyay & Ors. vs. State of Bihar & Anr** reported in **2024 INSC 202**.



22. It is pointed out that in view of aforesaid factual and legal aspects, the legal principles as available through **Bhajan Lal case** (supra) not appears helping to this petitioner.

23. From the perusal of record and taking note of arguments as canvassed by learned counsel appearing for petitioner, it *prima facie* appears that the petitioner accepted receiving of donations in his private account but, some justification was given in his defence. The petitioner also accepted that the earlier documents and registers were not provided to O.P. No.2 but, for same also the defence was supplied that theft took place in the office of society. All such facts cannot be looked into at this stage as these defence version can be taken into consideration during the trial only. The petitioner was declared permanent absconder by the court of law and despite of specific direction of this Court to surrender before the court below, he failed to appear before learned trial court.

24. In view of aforesaid, the present quashing petition appears devoid of any merit and, therefore, same



stands dismissed. Pending application(s), if any, stands disposed of.

25. Let a copy of this judgment be sent to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	AFR
CAV DATE	13.05.2025
Uploading Date	18-06-2025
Transmission Date	18-06-2025

