

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21707 of 2024

Arising Out of PS. Case No.-3 Year-2018 Thana- ROH District- Nawada

Usha Kumari D/o Baleshwar Paswan and W/o Shrawan Paswan R/o Village-
Parmanand Bigha, P.O- Rasalpur, P.S- Nooursarai, Distt.- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pramod Kumar Singh S/o Shri Ram Ayodhya Singh R/o Village- Bara Chakia, P.O- Bara Chakia, P.S- Bara Chakia, Distt.- East Champaran.
Presently Posted As Block Development Officer, Roh, Nawada.
3. Usha Kumari D/o Baleshwar Paswan D/o Baleshwar Paswan and W/o Vivek Kumar, R/o Village and P.O- Navadih, Pakribarawan, P.S- Rupo, Distt.- Nawada.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ram Prakash Kumar, Advocate.
For the Opposite Party/s : Mr.Ajay Mishra, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 30-08-2025

Heard Mr. Ram Prakash Kumar, learned counsel
appearing on behalf of the petitioner and Mr. Ajay Mishra,
learned APP for the State.

2. The present application has been filed under
Section 482 of the Cr.P.C. for quashing of the order dated
25.05.2023 passed by the learned Judicial Magistrate First
Class, Nawada in Roh P.S. Case No. 03 of 2018, whereby and
whereunder the learned Magistrate has taken cognizance against
the petitioner under Sections 406, 409, 420, 120(B), 467, 468,



471 and 34 of the Indian Penal Code.

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is innocent and the allegation alleged in the F.I.R. is against another Usha Kumari who was also a teacher, but in a different school, namely, Primary School, Sadikpur, Roh, Nawada, whereas the petitioner was working, at the relevant time, in Upgraded Middle School, Ramchandrapur, Biharsharif. Learned counsel further informs that the name of the father of both Usha Kumari is same, namely, Baleshwar Paswan and in this view, he submitted that prosecution can only be drawn against one of the Usha Kumari on the basis of the school, as has been alleged in the F.I.R. He further submitted that the investigation based on the allegation made in the F.I.R. has been found to be false, for which the Investigating Officer is facing departmental proceeding which vitiates the entire allegation made in the F.I.R. against the petitioner.

4. Mr. Ajay Mishra, learned APP for the State informs that considering the disputed question of fact and the trial is pending, no interference can be made in view of the fact that, prima facie, case is made out under Sections 406, 409, 420, 120(B), 467, 468, 471 and 34 of the Indian Penal Code against



the petitioner.

5. Heard the parties.

6. The question arises, whether in the facts and circumstances of the case and the allegation made in the F.I.R., the order taking cognizance dated 25.05.2023 against the petitioner under Sections 406, 409, 420, 120(B), 467, 468, 471 and 34 of the Indian Penal Code can be interfered by this Court in exercise of power under Section 482 Cr.P.C.

7. The Hon'ble Supreme Court has cautioned that jurisdiction under Section 482 Cr.P.C. should be used sparingly for the purpose of preventing abuse of process of any court or otherwise to secure ends of justice. The consideration requires for the same is to arrive to a definite finding, whether a compliant discloses criminal offence or not in the facts of the present case, fulfilling the essential ingredients of the offence as has been alleged against the petitioner. The only question in the instant case is, whether, there is any criminal offence disclosed in the F.I.R. so far as the petitioner is concerned.

8. The fact reveals that there is dispute relating to the identity of the petitioner, whether she has served at two places and has drawn salary simultaneously from the two schools after committing forgery, but at the same time, cognizance dated



25.05.2023 has been taken on the basis of the chargesheet submitted by the Investigating Officer on 20.02.2023, but the investigation conducted by the Investigating Officer has been doubted, for which the investigating officer is facing departmental proceeding. It is interesting that the chargesheet was submitted by the said Investigating Officer. In such circumstances, whether the criminal proceeding being taken recourse to as a weapon of harassment against the petitioner can be allowed to proceed for the allegations made under Sections 406, 409, 420, 120(B), 467, 468, 471 and 34 of the Indian Penal Code?

9. For better appreciation, Sections 405, 406 and 420 IPC are reproduced hereinafter:

“Section 405 IPC: (a) *a person should have been entrusted with property, or entrusted with dominion over property;*

(b) that person should dishonestly misappropriate or convert to his own use that property, or dishonestly use or dispose of that property or wilfully suffer any other person to do so; and

(c) that such misappropriation, conversion, use or disposal should be in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract which the person has made, touching the discharge of such trust.”

“Section 406 IPC: *Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”*

“Section 420 IPC: *Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and*



which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

10. It is suffice to mention that when the investigation conducted by the investigating officer and the charge sheet submitted on 20.02.2023 has been considered to be false and the investigating officer concerned is facing departmental proceeding, I don't find that the case under Sections 406, 409, 420, 120(B), 467, 468, 471 and 34 of the Indian Penal Code is made out against the petitioner on the basis of the charge sheet dated 20.02.2023 which has been rejected.

11. The Apex Court, in such circumstances, in ***Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre*** [***Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre***, reported in (1988) 1 SCC 692, in Paragraph No.7 has laid down the law as to quashment of proceedings under Section 482 Cr.P.C as follows:

“7. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilised for any oblique purpose and where in the opinion of the court chances of an ultimate conviction are bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the



special facts of a case also quash the proceeding even though it may be at a preliminary stage.”

12. The Apex Court in ***Inder Mohan Goswami v. State of Uttaranchal*** [***Inder Mohan Goswami v. State of Uttaranchal***, reported in (2007) 12 SCC 1 in paragraph nos. 25 and 46 has observed as under:

“25. Reference to the following cases would reveal that the courts have consistently taken the view that they must use this extraordinary power to prevent injustice and secure the ends of justice. The English courts have also used inherent power to achieve the same objective. It is generally agreed that the Crown Court has inherent power to protect its process from abuse. In Connelly v. Director of Public Prosecutions [Connelly v. Director of Public Prosecutions, 1964 AC 1254 : (1964) 2 WLR 1145 (HL)] Lord Devlin stated that where particular criminal proceedings constitute an abuse of process, the court is empowered to refuse to allow the indictment to proceed to trial. Lord Salmon in Director of Public Prosecutions v. Humphrys [Director of Public Prosecutions v. Humphrys, 1977 AC 1 : (1976) 2 WLR 857 (HL)] stressed the importance of the inherent power when he observed that it is only if the prosecution amounts to an abuse of the process of the court and is oppressive and vexatious that the Judge has the power to intervene. He further mentioned that the court's power to prevent such abuse is of great constitutional importance and should be jealously preserved.

46. The court must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused. On analysis of the aforementioned cases, we are of the opinion that it is neither possible nor desirable to lay down an inflexible rule that would govern the exercise of inherent jurisdiction. Inherent jurisdiction of the High Courts under Section 482CrPC though wide has to be exercised sparingly, carefully and with caution and only when it is justified by the tests specifically laid down in the statute itself and in the aforementioned cases. In view of the settled legal position, the impugned judgment cannot be sustained.”

13. On the basis of the given set of facts, no criminal offence has been made out in the F.I.R. read with the



charge sheet, so far as the petitioner is concerned.

14. For the reasons discussed above, the entire criminal proceeding arising out of Roh P.S. Case No. 03 of 2018 and the order taking cognizance dated 25.05.2023 are set aside and quashed, so far as the petitioner is concerned.

15. The present quashing application stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	03.09.2025
Transmission Date	N.A.

