

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25296 of 2025

Arising Out of PS. Case No.-52 Year-2024 Thana- MAHILA P.S. District- Saran

Om Prakash Sabhapati Yadav @ Om Prakash Yadav, S/o Sabhapati Yadav, Resident of Village- Fursatpur, P.S.- Garkha, Distt.- Saran. Presently R/o Balajinagar Raj Ratan Apartment G1 101, Huadeo Colony, P.S.- Kamleshwar, Distt.- Nagpur, Maharashtra.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Advocate Mr.Parmod Ban Bihari Singh, Advocate
For the Opposite Party/s	:	Mr.Kumar Ranjit Ranjan, APP
For the O.P. No. 2	:	Dr. Alok Kumar Alok, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 26-06-2025

Heard learned counsel appearing on behalf of the parties.

2. The present application has been filed for quashing the First Information Report bearing Mahila P.S. Case No. 52 of 2024 registered under Sections 376, 406, 420 and 506 of the Indian Penal Code.

3. Prosecution case, in brief is that one Rita A submitted a written information before the S.H.O. Mahila Police Station stating therein that she is residing at Tamilnadu with her family. She and her mother came at Chapra on occasion of marriage of her brother Ajit but certain dispute took place between her family and her Gotia (agnate) whereafter case and counter case was



lodged by both sides. It is further alleged that her father and brother have been sent to jail in Mashrakh P.S. Case No. 229 of 2022. Thereafter, she and her mother became helpless. On false pretext of extending help petitioner established physical relation with her mother and also with her on several occasions. They were also assured by petitioner to secure bail for her father and brother. Petitioner also alleged to usurp ancestral land and jewellery of opposite party no. 2.

4. With aforesaid information, the present FIR i.e. Mahila P.S. Case No. 52 of 2024 for the offences punishable under Sections 376, 406, 420 and 506 of the Indian Penal Code was registered against petitioner.

5. It is submitted by Mr. Y.V. Giri, learned senior counsel appearing for petitioner that with same set of allegations prior to this FIR, a complaint case was filed by the mother of the informant, which was registered as Complaint Case No. 500/2024, which after proper enquiry and after obtaining police report under Section 210 of the Cr.P.C. for the alleged offence of rape, the complaint as filed aforesaid was dismissed under Section 203 of Cr.P.C. by learned Jurisdictional Magistrate through its order dated 22.10.2024. It is submitted that the said dismissal order was not challenged before any higher forum, rather this time complainant



indulged her daughter to lodge present FIR almost with same allegation *qua* same occurrence. It is submitted that out of ulterior and oblique motive, to settle score with petitioner in land dispute, the petitioner was implicated with present case, who otherwise helped the informant and her mother in criminal case pending against her father and bother in Civil Court, Chapra. It is submitted that this is a classical case of malicious prosecution. It is pointed out that in view of aforesaid fact, the present FIR is fit to be set aside/quashed, in view of ***State of Haryana and Ors. Vs. Bhajan Lal and Ors.***, reported in ***1992 Supp (1) Supreme Court Cases 335***, as same is legally barred.

6. Mr. Alok Kumar Alok, learned counsel appearing for opposite party no. 2 submitted that the present FIR was lodged by the daughter of the informant, whereas the earlier complaint was lodged by the mother but fairly conceded that the FIR was lodged with same allegation of complaint case as discussed aforesaid, which was dismissed by learned jurisdictional magistrate. It is submitted that aforesaid dismissal order was challenged before appellate court for which Cr. Revision No. 53/2025 is pending before ADJ-17th, District- Chapra.

7. It would be apposite to reproduce para 102 of the ***State of Haryana and Ors. Vs. Bhajan Lal and Ors.***, reported



in **1992 Supp (1) Supreme Court Cases 335**, which reads 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 informant 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 persons 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.”

8. Taking note of aforesaid factual and legal submission, the present FIR i.e. Mahila P.S. Case No. 52 of 2024 registered under Sections 376, 406, 420 and 506 of the Indian Penal Code, which appears lodged with same allegation/occurrence for which criminal complaint was already filed, which upon dismissal admittedly challenged before appellate court, lodging of present FIR, subsequently, appears only with an ulterior motive by making daughter as informant. Certainly for same occurrence with same allegation, two criminal cases cannot be initiated. Hence, present



FIR bearing Mahila P.S. Case No. 52 of 2024 registered under Sections 376, 406, 420 and 506 of the Indian Penal Code, which was lodged subsequently is hereby quashed/set aside.

9. It is made clear that quashing of present FIR is of no bearing on pending Criminal Revision as discussed aforesaid. Trial Court is directed to dispose Cr. Revision No. 53 of 2025, arising out of Complaint Case No. 500 of 2024, within two months of this order, which is pending before learned ADJ-17th as submitted above, in accordance with law.

10. Let copy of this order be sent to the learned trial court, without delay.

(Chandra Shekhar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.06.2025
Transmission Date	28.06.2025

