

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24155 of 2024

Arising Out of PS. Case No.-19 Year-2012 Thana- PIRO District- Bhojpur

Arvind Kumar Son Of Late Dasu Singh Resident Of Village - Harnaha Tola,
Police Station - Chowk, Patna City, Patna, Bihar - 800008, Presently Posted
As District Statistical Officer, Hazipur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Pramod Kumar Mishra Son Of Late Hari Shankar Mishra Resident Of
Village - Mau, Police Station - Vidyapati Nagar, District - Samastipur, Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kumar, Adv. Mr. Rajnish Kumar, Adv. Mr. Rajeev Ranjan, Adv. Mr. Kumud Ranjan, Adv.
For the Opposite Party/s :		Mr. Lalan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT
Date : 30-01-2025

1. Heard learned counsel appearing on behalf of
the parties.

2. Present petition for quashing preferred
against order dated 17.01.2014, passed in G.R case no.
330 of 2012 arising out of Piro P.S. Case No. 19 of 2012
dated 18.01.2012 by learned Chief Judicial Magistrate,
Bhojpur at Ara where cognizance has been taken against
the petitioner for the offence under sections 419, 420,
467, 468, 471 IPC presently pending before Court of



learned A.C.J.M-VI, Bhojpur at Ara.

3. It has been alleged that in Financial year 2010-11, one Mahendra Ram, son of Bulaki Ram of Akaruan, Gram Panchayat, Village-Rajapur, was selected as beneficiary for Indira Awas Yojana, under schedule caste category and therefore Block office had issued payment advice to P.N.B. Bank to pay a sum of Rs. 30,000/- as first installment but another Mahendra Ram, Son of Ram Deo Ram (Co-accused) of same village withdrawn the said amount by giving his A/C No. 37785. It has further been alleged that when Mahendra Ram (co-accused), Son of Ram Deo Ram of Rajapur village given application for second installment of Rs. 15,000/-, then Block office inquired into the matter and it came to the light that Mahendra Ram, son of Ram Deo Ram (co-accused) of Village Rajapur had filed an affidavit before Block Office as Mahendra Ram, Son of Bulaki Ram of village Rajapur and deceived the Block office and got the amount of Indra Awas Yojana after giving his old A/C no.



37785 (P.N.B) and withdrew the amount fraudulently. It has further been alleged that Mahendra Ram, Son of Bulaki Ram of village Rajapur gave complaint that he has not received benefits under Indra Awas Yojana whereafter this matter was came in knowledge of concerned officials. It has further been alleged that as he had received benefits under Indra Awas Yojana in the financial year 2010-11 therefore, he was not entitled for any benefits under the same scheme for financial year 2011-12.

4. Learned counsel for the petitioner submitted that the petitioner was posted as Block Development Officer (B.D.O.) at district Ara. It is pointed out that he was not named in the FIR but his name was added as an accused when the charge-sheet was submitted on 21.12.2013 through charge-sheet no. 279 of 2013 whereafter, the Id. trial court took cognizance against this petitioner vide impugned order dated 17.01.2014 which is the subject matter of the present quashing.

5. It is submitted by learned counsel for the



petitioner that being B.D.O., the petitioner transferred the amount of Rs. 30,000 in the bank account of beneficiary namely, Mahendra Ram, son of Bulaki Ram which is the part of the FIR itself, but the same amount was withdrawn fraudulently by another person having same name Mahendra Ram, son of Ram Deo Ram. It is submitted that entire thrust of allegations is available against the said named co-accused person but during the course of investigation certain persons made their statement under Section 161 of the Cr.P.C. that alleged withdrawal by Mahendra Ram, son of Ram Deo Ram was not possible without involvement of petitioner being B.D.O. It is submitted that merely on the basis of suspicion the petitioner being the B.D.O was made accused and charge-sheet was submitted against him. It is further pointed out by learned counsel that the successor of the petitioner issued notice to the co-accused Mahendra Ram, son of Ram Deo Ram regarding deposit of withdrawal amount. It is pointed out that save and



except disbursing cash to the name of beneficiary i.e., Mahendra Ram, son of Bulaki Ram, in official capacity nothing appears against this petitioner except suspicion.

6. It is also pointed out that the impugned order, which is a cognizance order dated 17.01.2014 was passed without supplying any reasons and was ordered in a very mechanical manner and therefore, on this score also the cognizance *qua* petitioner be quashed/set aside.

7. In support is his submissions learned counsel relied upon the legal report of ***Kanchan Kumar vs. State of Bihar*** reported in ***(2022) 9 SCC 577***.

8. In this context, it would be apposite to reproduce para no. 102 of ***State of Haryana and Ors. vs. Bhajan Lal and Ors.*** reported in ***1992 Supp (1) SCC 335*** which reads as follows:-

"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.”

9. From the perusal of record and taking note of submissions of learned counsel appearing for the parties, it transpires that the petitioner was working as B.D.O. and was not named in the FIR and even the case diary which was said to be perused at the time of cognizance, reflects nothing beyond suspicion *qua* petitioner. It is an admitted position that the beneficiary was not the desired persons but noting transpires during investigation beyond suspicions *qua* this petitioner.

10. In view of the same it can be said safely that no case *qua* petitioner is made out.

11. Accordingly, impugned order of



cognizance dated dated 17.01.2014 passed by Chief
Judicial Magistrate, Bhojpur at Ara, is hereby set aside
and quashed *qua* above-named petitioner with all its
consequential proceedings.

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

(Chandra Shekhar Jha, J)

Sudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.02.2025
Transmission Date	04.02.2025

