

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42979 of 2016

Arising Out of PS. Case No.-460 Year-2009 Thana- NAWADA District- Nawada

Priyanka @ Priyanka Kumari, daughter of Sri Jai Ram Singh, resident of Mohalla/P.O.-Gonawan, P.S.-Nawada (Town), District – Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sidhendra Narayan Singh, Advocate.

For the State : Mr.Ajit Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 19-08-2025 Heard Mr. Sidhendra Narayan Singh, learned counsel appearing on behalf of the petitioner and Mr. Ajit Kumar, learned APP for the State.

2. The petitioner has filed the present application under Section 482 Cr.P.C. Allegedly the petitioner got benefited by drawing fixed pay prescribed for the Shiksha Mitra from 01.07.2005 till 29.02.2008 in connivance with all the members of the appointing unit of Gram Panchayat Gonawan, Nawada. The matter was inquired into on the basis of a complaint dated 18.08.2008 made by a local MLA. On the basis of preliminary inquiry, Nawada Town P.S. Case No. 460 of 2009 was lodged on 11.12.2009 against the Mukhiya, Panchayat Sachiv, Block Education Officer including the petitioner under Sections 409, 419, 420, 120B and 468 of the Indian Penal Code.

3. The petitioner has sought quashing of the order taking cognizance dated 01.05.2014 passed by the learned Chief



Judicial Magistrate, Nawada.

4. I have perused the allegation made in the F.I.R and the revised guidelines issued in the year 2004 for the appointment of Shiksha Mitra. The scheme of Shiksha Mitra was repealed and the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006 (hereinafter referred to as the 'Rules 2006') came into effect. All the Shiksha Mitra were absorbed w.e.f. 01.07.2006 and they were treated as Panchayat Teacher / Niyojit Teacher. The record is silent, as to whether, the petitioner was also absorbed as Panchayat Teacher / Niyojit Teacher. The petitioner is holding M.B.A. degree which has been brought on record by way of Annexure-2 series. The petitioner has given information that to get rid of the criminal prosecution, she had deposited a sum of Rs. 96500/- on 28.03.2016, in light of the order dated 05.02.2016 passed in Cr. Misc No. 48399/2015.

5. From bare perusal of the F.I.R. and the record, it reveals that the petitioner was allegedly appointed as Shiksha Mitra on 05.06.2005 and the appointment letter was issued to the petitioner on 30.11.2007, which bears the joint signature of the Mukhiya and the Panchayat Sachiv of the Gonawan Gram Panchayat. On the basis of said appointment letter, an amount of Rs.96,500/- was allegedly paid to the petitioner vide Cheque



No. 602276 dated 13.03.2008 on account of Honorarium from 01.07.2005 to 29.02.2008.

6. I find that the scheme of Shiksha Mitra came to an end after coming into force of Rules, 2006 and pursuant to Rules, 2006, all the Shiksha Mitra were absorbed as Panchayat Teacher / Niyojit Teacher from 01.07.2006.

7. It is well settled that a complaint may be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with *mala fides*/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

8. It is well settled that the Court should sparingly exercise its power under Section 482 of the CrPC. In case of ***Prof. R. K. Vijayasathya & Anr. vs Sudha Seetharam & Anr., (Criminal Appeal No.238 of 2019 arising out of Special Leave Petition (Crl) No.1434 of 2018)***, wherein the Apex Court held that a court exercising its inherent jurisdiction must examine if on their face, the averments made in the complaint constitute the ingredients necessary for the offence. The observations are as under:

“10. Section 482 of Code of Criminal Procedure saves the inherent power of the High Court to make orders necessary to secure the ends of justice. In *Indian Oil Corp. v NEPC India Ltd.*⁵, a two judge Bench of this Court reviewed the precedents on the exercise of jurisdiction under Section 482 of the Code of Criminal Procedure 1973 and formulated guiding principles in the



following terms:

"12....

(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with mala fides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the 5 (2006) 6 SCC 736 ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v)...

11 The High Court, in the exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure, is required to examine whether the averments in the complaint constitute the ingredients necessary for an offence alleged under the Penal Code. If the averments taken on their face do not constitute the ingredients necessary for the offence, the criminal proceedings may be quashed under Section 482. A criminal proceeding can be quashed where the allegations made in the complaint do not disclose the commission of an offence under the Penal Code. The complaint must be examined as a whole, without evaluating the merits of the allegations. Though the law does not require that the complaint reproduce the legal ingredients of the offence verbatim, the complaint must contain the basic facts necessary for making out an offence under the Penal Code.

12. The first respondent has alleged in the complaint that the appellants have committed offences under Sections 405, 406, 415 and 420 read with Section 34



of the Penal Code. It would thus be necessary to examine the ingredients of the above offences and whether the allegations made in the complaint, read on their face, attract those offences under the Penal Code.

*15. **Section 420** of the Penal Code reads thus: "Section 420. Cheating and dishonestly inducing deliver of property.- 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 to 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." The ingredients to constitute an offence under Section 420 are as follows:*

- i) A person must commit the offence of cheating under Section 415; and*
- ii) The person cheated must be dishonestly induced to*

- (a) deliver property to any person; or*
- (b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.*

Cheating is an essential ingredient for an act to constitute an offence under Section 420.

16. A court exercising its inherent jurisdiction must examine if on their face, the averments made in the complaint constitute the ingredients necessary for the offence."

9. In the background of the facts and allegation made against the petitioner, *prima facie*, it appears that there was no reason for making payment for the post / scheme which was no more in existence. The petitioner who allegedly got benefited monetarily had already returned back the entire amount of Rs.96,500/- in light of the order dated 05.02.2016 passed in Cr. Misc No. 48399/2015.

10. It is equally well settled that a criminal proceeding can be quashed where the allegations made in the complaint do



not disclose the commission of an offence under the Penal Code. The complaint must be examined as a whole, without evaluating the merits of the allegations. Though the law does not require that the complaint reproduce the legal ingredients of the offence verbatim, the complaint must contain the basic facts necessary for making out an offence under the Penal Code. Considering the above mentioned facts and circumstances and discussions made hereinabove, the entire criminal proceeding against the petitioner in connection with Nawada Town P.S. Case No. 460 of 2009 pending in the Court of CJM, Nawada is hereby set aside and quashed.

11. Accordingly, continuation of criminal proceeding against the petitioner being vexatious in nature will be abuse of process of the Court so far as the petitioner is concerned also set aside and quashed.

12. The present quashing application stands disposed of.

(Purnendu Singh, J)

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