**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**CRIMINAL MISCELLANEOUS No.42801 of 2025**
Arising Out of PS. Case No.-10 Year-2025 Thana- VIGILANCE District- Patna

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Shweta Mishra @ Sweta Mishra Daughter of Dinesh Kumar Mishra Resident of G- 1, 105, Sector - Govardhan, Kalindipuram, Rajroopur, P.S.- Dhoomnangaj, District - Prayagraj, State - Uttar Pradesh, at present posted as Public Grievance Redressal Officer, Manihari, Katihar, Bihar.

... ... Petitioner/s

Versus

The State of Bihar through the Superintendent of Police, Special Vigilance Unit, Patna. Bihar

... ... Opposite Party/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Bindhyachal Singh, Sr. Advocate |
| | | Mr. Aakash Singh, Advocate |
| | | Mr. Anuj Kumar, Advocate |
| For the Vigilance | : | Mr. Rana Vikram Singh, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**
**ORAL JUDGMENT**

**Date : 18-11-2025**

Heard Mr. Bindhyachal Singh, learned senior counsel along with Mr. Aakash Singh and Mr.Anuj Kumar, learned counsels appearing on behalf of the petitioner and Mr. Rana Vikram Singh, learned counsel for the Special Vigilance Unit.

2. The petitioner has preferred application under Section 528 BNSS, *inter alia*, for quashing and setting aside the First Information Report relating to Special Vigilance Unit P.S. Case No. 10 of 2025 dated 03.06.2025 in which she has been made accused for the offences punishable under Sections 13(1)(b) r/w 13(2) and 12 of the Prevention of Corruption Act, 1988 (hereinafter referred to as the "P.C. Act") and 61(2) of the BNS, 2023.

**BRIEF FACTS**

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3. The prosecution story in brief is that Mr. Jai Prakash Mishra, Superintendent of Police, SVU, Patna, stated to have received credible information that Sweta Mishra, presently posted as Public Grievance Redressal Officer, Katihar, has amassed huge movable and immovable assets from 2011-2012 till date to the extent of approximately Rs. 80,11,659/-, which are alleged to be disproportionate to her known and legitimate sources of income. It is alleged that she is a 48th–52nd Batch Officer of the Bihar Administrative Service, who joined service in the year 2011 and has a total service length of 14 years, during which she earned approximately Rs. 95,00,000/- as salary. Her expenditure during the said period is computed at Rs. 38,79,700/-, leaving a likely saving of about Rs. 56,20,000/-. However, she is found to be in possession of movable and immovable assets worth Rs. 1,36,31,859/-, either in her own name or in the names of her family members and others, alleged to have been acquired illicitly by corrupt means, thereby reflecting disproportionate assets of Rs. 80,11,659/- accumulated between 2011 till the date of inquiry. On the basis of the credible information received on his self statement, the Superintendent of Police, S.V.U. registered the FIR against the petitioner for offences under Sections 13(1)(b) read with 13(2)

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and 12 of the Prevention of Corruption Act, 1988 (as amended in 2018), and Section 61(2) of the Bharatiya Nyaya Sanhita, 2023. Aggrieved by the registration of FIR, petitioner has filed the petition under Section 528 of the BNSS.

**SUBMISSION ON BEHALF OF THE PETITIONER**

4. Mr. Vindhyachal Singh, learned Senior Counsel appearing on behalf of petitioner submitted that the petitioner had joined the service on *19.04.2011 as a Probationer Deputy Collector at Saran, Chapra***,** after qualifying the 48th–52nd Combined Competitive Examination conducted by the *Bihar Public Service Commission* in 2010. Prior to joining the Bihar Administrative Service, the petitioner had worked as Lecturer (Logic) at S.G.G.I.C., Jhabrera, Haridwar, Uttarakhand, from October 2005 to 2011.

5. Learned senior counsel informs that on *05.06.2025*, four teams of S.V.U., Patna conducted simultaneous raids at the petitioner's office and residential premises situated at Katihar, Patna and Prayagraj and seized *Rs. 22,44,500/-* in cash along with other articles as detailed in the seizure lists. No opportunity was provided to the petitioner to explain the lawful source of the seized cash. The SVU also circulated the raid

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details in the media. It has been submitted that the petitioner is being harassed by the senior officials of Govt. of Bihar, who managed to get the FIR lodged immediately after the order dated 16.05.2025 passed in MJC No. 643 of 2025 arising out of CWJC No. 3299 of 2024, through vigilance to spoil her career with an intention to adversely affect her service record and her entitlement for promotion and other consequential benefits.

6. Learned senior counsel taking into the petitioner's total length of service of 20 years which includes the length of service as lecturer- Logic in S.G.GIC, Jhabrera, Haridwar, Uttarakhand) submitted that the gross salary of the petitioner is Rs. 1,30,96,043/- (Rs. One Crore Thirty Lac Ninety Six Thousand Forty Three) excluding the income of assessment year 2005-06 and 2006-07 due to unavailability of the documents. During the said period, the petitioner earned approximately total Rs.89,18,776/- (Rs. Eighty Nine Lac Eighteen Thousand Seven Hundred Seventy Six) from interest on saving/FD/LIC/PPF/profit from sale of Mutual Fund/ from Rentalv/Income/Profit from sale of property etc. As such the petitioner's total earning comes to around Rs.2,20,14,819/- (Rs. Two Crore Twenty Lac Fourteen Thousand Eight Hundred Nineteen). He contended that all the figures are well accounted

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and has been assessed by the Income Tax Department during the relevant assessment years, therefore, without verifying from the Income Tax Return, the whole allegation of disproportionate asset as alleged in the FIR becomes baseless. Learned senior counsel informs that the petitioner's ex-husband namely Dr. Chunni Lal Tripathi, who is an Officer in Government of Uttar Pradesh, had purchased a piece of agricultural land measuring 1.150 Hectare in the name of the petitioner, later on, he got the aforesaid land transferred in the name of the petitioner's minor daughter namely Kumari Titiksha under guardianship of Dr. Chunni Lal Tripathi Vide Deed No. 3404/12, dated 03/12/2012, thereafter, the petitioner remarried on *28.07.2024,* in which she had received cash gifts amounting to *Rs. 8,00,000/- as stridhan* and additional cash received from sale of old gold jewellery, which are well accounted and have been declared at the time of joining service. The same was also allegedly seized by the SVU.

7. Learned senior counsel, in support of his argument, has relied upon following judgments:

(1) ***Lalita Kumari vs. Govt. of U.P.*** reported in ***(2014) 2 SCC 1***

(2) ***P. Sirajuddin V/s The State of Madras*** reported in ***(1970) 1 SCC 595***

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(3) ***State of Uttar Pradesh V/s Bhagwant Kishore Joshi*** reported in ***AIR (1964) SC 221***

(4) ***State of Karnataka V/s Channakeshava H.D. and Others*** reported in ***(2025) INSC 471***

(5) ***State of Karnataka V/s T.N. Sudhakar Reddy*** reported in ***(2025) INSC 229***

(6) ***Nirankar Nath Pandey V/s The State of U.P. [Cr. Appeal No. 5009 of 2024, arising from SLP (Crl.) no. 10101/2024]***

8. Learned senior counsel based on the above proposition of law submitted that there is allegation of corruption against the petitioner, who is a public servant, in the light of *Lalita Kumari (Supra)*, preliminary enquiry should have been conducted.

9. Learned senior counsel submitted that from perusal of the FIR, it would appear that in absence of any source report or material available to the Superintendent of Police, who has drawn the FIR to disclose that commission of cognizable offence was available and in non disclosure of the same to arrive at his satisfaction as per the mandate of law laid down in *Lalita Kumari (Supra)* to show that the information collected in respect of disproportionate asset of the petitioner, the officer

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recording the FIR has to satisfied with such disclosure if he has proceeded to conduct any enquiry on the basis of credible information received. Learned counsel further submitted that in all the cases referred hereinabove, before registering of an FIR, disclosure of the source information was recorded, which *prima facie* discloses that there was material to lodge FIR. In this regard, learned counsel has referred to two Judges Bench judgment of the Hon'ble Supreme Court in ***Charansingh vs. State of Maharashtra*** reported in ***(2021) 5 SCC 469,*** to contend that registration of FIR is mandatory under Section 154 if information discloses commission of cognizable offence and no preliminary enquiry is permissible, in such a situation and the same is general rule and must be strictly complied with. In the present case, the FIR don't disclose any information to ascertain whether a cognizable office is disclosed or not.

10. Learned senior counsel further submitted that neither any seisin of source information report was available to the superior officer, nor any report detailed or well-reasoned enough, that any reasonable person would be of the view that it *prima facie* discloses the commission of a cognizable offence, was available. Thus, preliminary enquiry should have been conducted in the present facts and circumstances of the case, in

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light of *T.N. Sudhakar Reddy (supra)*. in para 51 (b).

11. Learned counsel further submitted that in absence of source information, the Superintendent of Police could not have registered a case against the petitioner under Sections 13(1)(b) r/w 13(2) and 12 of the Prevention of Corruption Act, 1988 (hereinafter referred to as the "P.C. Act") and 61(2) of the BNS, 2023 without recording source information for putting the enquiry in motion.

12. Learned senior counsel submitted that the preliminary enquiry ought to have been conducted, as no detailed source report disclosing the commission of a cognizable offence has been adhered to by any superior officer, in light of ***Channakeshava H.D. (supra).*** That neither any seisin of source information report was available to the superior officer, nor any report detailed or well-reasoned enough, that any reasonable person would be of the view that it prima facie discloses the commission of a cognizable offence, was available. Thus, preliminary enquiry should have been conducted in the present facts and circumstances of the case, in light of ***T.N. Sudhakar Reddy (supra).***

13. Learned senior counsel has placed reliance on the judgment passed by the Apex Court in case of ***Madhavrao***

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***Jiwajirao Scindia and Ors V/s Sambhajirao Angre and Ors*** reported in ***(1988) 1 SCC 692*** in which Apex Court has laid down that where the chances of an ultimate conviction is bleak, no useful purpose is likely to be served by allowing a criminal prosecution to continue. The Hon'ble Court further held that proceedings may also be quashed even though it may be at a preliminary stage. Learned senior counsel for petitioner relied upon the judgment passed by the Apex Court in case of ***Nirankar Nath Pandey V/s The State ofU.P. [Cr. Appeal No. 5009 of 2024,*** arising from ***SLP (Crl.) no. 10101/2024] -*** in which Apex Court has observed that inflation and natural progression in the changing economy has to be taken into the consideration while examining an individual's assets and income, and making a determination regarding disproportionate assets. The Court further observed that there should be a more dynamic approach while considering an individual's income and assets over the span of two decades.

14. Learned Senior Counsel further submitted that That in the present case, preliminary enquiry not being conducted, along with with malicious intent of the prosecution agency, which is apparent by the very fact that the SVU, Patna, got information regarding the disproportionate assets of the

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petitioner, on the same date on which the petitioner informed the Joint Secretary, GAD, Patna, vide letter/Email, about the order passed in favour of the petitioner in MJC No. 643 of 2025, arising out of CWJC No. 3299 of 2024, clearly makes a case where the F.I.R. should be quashed.

**SUBMISSIONS ON BEHALF OF RESPONDENT**

15. *Per Contra,* Learned counsel appearing on behalf of the Special Vigilance Unit submits that credible information and material was received against the petitioner during a confidential enquiry, and only thereafter was the FIR registered. The FIR is not based on surmises or presumptions, but on specific findings emerging from the enquiry records.

16. Learned counsel further submitted that the petitioner's contention regarding her alleged 20 years of service is misleading. While she may have worked as a lecturer prior to joining the Bihar Administration Service in 2011, the scrutiny undertaken by the Special Vigilance Unit relates strictly to her service as a Government Officer in the Bihar Administration Service commencing from the year 2011.

17. Learned counsel submitted that with respect to the petitioner's claim of additional income from gifts, ancestral

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properties, and transactions relating to immovable property, the Vigilance submits that all such assertions are matters of investigation. These claims must undergo scrutiny and proper verification, including examination of the legality or illegality of the professed sources of income and investment, and compliance with service conduct rules regarding declaration of assets. The plea of additional income appears to be an afterthought adopted as a defence, and its credibility and genuineness can only be verified upon detailed investigation. The so-called “gifts” claimed from her father, brother and other relatives, allegedly both in cash and in kind including immovable assets, also appear to have been projected with a view to legitimize disproportionate assets. These claims require thorough and proper investigation. Such defences cannot be accepted at this preliminary stage, particularly when the alleged transactions may be *benami* in nature and intended to legitimize disproportionate assets. Verification of these claims can only be undertaken during the course of investigation and trial.

18. Learned Counsel further submitted that at this juncture, it is pertinent to note that the FIR was lodged on 03.06.2025 under various provisions of the Prevention of Corruption Act and the BNS, 2023. However, the present

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petition seeking quashing of the FIR was filed merely 16 days thereafter, on 20.06.2025. The entire quashing petition is based solely on factual assertions of defence, and the petitioner seeks quashing of the FIR merely on the basis of those self-serving claims made in the petition and the supplementary affidavit. These factual defences, *dehors* any legal basis or judicial precedent of the Hon'ble Supreme Court, cannot form the foundation for quashing of an FIR. Learned Counsel further submitted that the petitioner's allegation that the FIR has been lodged with "malicious intention" is wholly baseless and appears to be an attempt to divert attention from serious allegations of corruption and possession of assets disproportionate to her known sources of income.

19. Learned counsel appearing on behalf of the S.V.U., in support of his submission that Court should not interfere at the stage of investigation unless the allegations do not disclose any offence on the face of it, has relied upon following judgments:

(1) ***Haryana & Ors. vs. Ch. Bhajan Lal & Ors.*** reported in ***(1992) Supp (1) SCC 335.***

(2) ***Superintendent of Police, CBI and Ors, vs Tapan Kumar Singh*** reported in ***AIR 2003 SC 4140,*** to contend

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that FIR is not an encyclopedia.

(3) ***Neeharika Infrastructure Pvt. Ltd. vs State of Maharashtra and Anr.,*** reported in ***AIR 2021 SC 1918,*** in relation to the Court exercising its jurisdiction under Article 226 of the Constitution of India or Section 482 Cr.P.C. with respect to quashing of the FIR.

(4) To contend that FIR is required to be filed if cognizable offence is made out, has relied upon following judgments:

(i) ***CBI and Anr. Vs Thommandru Hannah Vijayalakshmi @ T. H. Vijayalakshmi and Anr.,*** reported in ***(2021) 18 SCC 135***

(ii) ***King Emperor vs Khwaja NazirAhmed,*** reported in ***AIR 1945 PC 18***

(5) ***State of Chhattisgarh and Anr. Vs Aman Kumar Singh and Ors.*** along with ***Uchit Sharma vs State of Chattisgarh and Ors.*** reported in ***(2023) 6 SCC 559,*** to content that High Courts should maintain a hands-off approach in corruption cases.

(6) ***State of Telangana vs Managipet,*** reported in ***(2019) 19 SCC 87,*** to contained that preliminary enquiry cannot be made mandatory for all cases of alleged corruption, which

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depends on the facts and circumstances of each case.

**ANALYSIS & CONCLUSION**

20. Heard the parties.

21. In the present case, the Superintendent of Police, S.V.U., Patna having received credible information regarding immovable properties of the petitioner much more than the known source of income lodged an FIR relating to Special Vigilance Unit P.S. Case No. 10 of 2025 dated 03.06.2025 exercising his jurisdiction under Section 30 B.N.S.S. (corresponding Section 36 of the Cr.P.C.) vested with the same power that the officer in charge may exercise within their police station under Section 173 B.N.S.S. (corresponding Section 154 Cr.P.C.). Simultaneously, he had issued search warrants to the Dy.S.P., S.V.U., Patna, Bihar, under Section 96 of the BNSS ,in Form-10 under the seal of the Court order dated 4th June, 2025 by the Special Judge (Vigilance), Patna in respect of the article, material, document to be seized at office of PGRO, Manihari, District- Katihar, Flat of Shweta Mishra at Aradhya Mansion, Flat No. 202, A.G. Colony, Sheikhpura, Shashtri Nagar, Patna; House No. 144 at Deo Prayagam Erobo Sangam Vatika, Type 2 Tahsila-Sadar, District- Prayagraj, U.P.; residential rented house of Shweta Mishra at Mirchaibari, Katihar. Dy. S.P.-cum-

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Investigating Officer of the case filed his application before the learned Special Judge (Vigilance), Patna for issuance of search warrant in his name. Accordingly, the Superintendent of Police authorized him under Section 17 of the P.C. Act to investigate the S.V.U. P.S. Case No. 10 of 2025. The FIR and the authorization letter are reproduced hereinafter:

**Information**

*A credible information has been received through a reliable source that Sweta Mishra presently posted as Public Grievance Redressal Officer, Manihari, Katihar has accumulated huge moveable and immoveable assets from 2011 to till date in furtherance of criminal conspiracy illicitly to the extent of Rs. 80,11,659.00/- approx which is disproportionate to her legitimate source of income.*

*It is alleged that Sweta Mishra is a 48th_52' batch officer of Bihar Administration Service. She joined service in year 2011 and worked in Sasaram, Kaimur, Gaya and Bhojpur districts of Bihar. Her total length of service is around fourteen years.*

*Credible information exists that there are several land/flats and other assets in the name of Sweta Mishra and her family members at Patna, U.P. & others places amounting to Rs. 1,36,31,859/- approx.*

*It has learnt that Sweta Mishra has legal source of income to the extent of Rs.95,00,000/- approx earned as salary during her service period.. It is further alleged that approx expenditure incurred during the said period can be computed to the extent of Rs.38,79,800/-approx. Therefore, the likely saving during the same period can be computed to the extent of Rs. (Income - Expenditure) 56,20,200/-approx.*

*It is alleged that the accused is in possession of moveable and immoveable assets to the extent of Rs. 1,36,31,859 approx either in her own name or in the name of her family members and others also which have been illicitly earned by corrupt and illegal means.*

*It is further alleged that as against the above, the accused is in possession of disproportionate asset to the extent of Rs. 80, 11,659/- which has been illicitly earned by her during the period 2011 to till date.*

*The facts mentioned above prima facie disclose commission of offences of possession of disproportionate asset by the accused Sweta Mishra who conspired to acquire this disproportionate assets to the extent of Rs. 80,11,659 approx by corrupt and illegal means which she cannot account for satisfactorily.*

*Therefore, this case is registered u/s 13(1)(b) r/w 13(2) r/w 12 of PC Act 1988 (as amended in 2018) and 61(2)(a) BNS 2023 against*

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*Sweta Mishra and others unknown and entrusted to Sri Raj Kumar Singh, Dy.SP for open investigation by the order of the competent authority.*

*Date:- 04.06.2025* *(J.P. Mishra)*
*Supdt. of Police*
*SVU, Patna*
*Signature/-*

**OFFICE ORDER**

*Subject- Authorization u/s 17 & 18 of PC Act 1988 for investigation of the offence u/s u/s 13(1)(b) r/w 13(2) r/w 12 of PC Act 1988 (as amended in 2018) and 61(2)(a) of BNS 2023 against Sweta Mishra.*

*Whereas it was made to appear in the information that the accused is in possession of assets disproportionate to his known source of income and that there is reasonable belief that he came into possession of such disproportionate assets through corrupt and illegal means and investigation into the matter appears necessary, Shri Raj Kumar Singh, Dy. SP, SVU, Patna is authorized to investigate into the assets and liabilities of the accused aforesaid and to arrive at disproportionate assets held by the said accused.*

*The said Shri Raj Kumar Singh, Dy. SP, SVU, Patna is hereby authorized under section 17 of PC Act, 1988 to investigate the SVU PS case no. 10/2025 u/s 13(1)(b) r/w 13(2) r/w 12 of PC Act 1988 (as amended in 2018) and 61(2)(a) of BNS 2023 against the above named accused person. He is also authorized on behalf of the undersigned to exercise the power under section 18 of PC Act."*

*Date:- 03.06.2025* *(J.P. Mishra)*
*Supdt. of Police*
*Signature/-*

22. Section 13 deals with the criminal misconduct of the public servants and prescribes the punishment for the commission of offence of criminal misconduct.

***13. A public servant is said to commit the offence of criminal misconduct:***

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*(a) if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in section 7;*

*or*

*(b) if he habitually accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned;*

*or*

*(c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or*

*(d) if he,--*

*(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage;*

*or*

*(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage;*

*or*

*(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest;*

*or*

*(e) if he or any person on his behalf, is in possession or has, at any time during the period of his office, been in possession for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.*

*Explanation*

*For the purposes of this section, known sources of income means income received from any lawful source and such receipt has been intimated in accordance with the provisions of any law, rules or orders for the time being applicable to a public servant (2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.*

23. The Section 17 deals with investigation into

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cases under the Act and provides:

*"17. Persons authorized to investigate Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no police officer below the rank,--*

*(a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;*

*(b) in the metropolitan area of Bombay, Calcutta, Madras and Ahmedabad and in any other metropolitan area notified as such under sub-section (1) of Section 8 of the Code of Criminal Procedure, 1973 (2 of 1974), of an Assistant Commissioner of Police;*

*(c) elsewhere, of a Deputy Superintendent of Police or a police officer of equivalent rank.*

*shall investigate any offence punishable under this Act without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefore without a warrant;*

*Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a Metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make arrest therefore without a warrant;*

*Provided further that an offence referred to in clause*

*(e) of sub- section (1) of section 13 shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police.*

24. Section 17 provides that no police officer below the rank of an Inspector in the case of Delhi Special Police Establishment, an Assistant Commissioner of Police in the metropolitan areas of Bombay, Calcutta, Madras and Ahmedabad and any other metropolitan area notified as such and Dy. Superintendent of Police or a police officer of the equivalent rank shall investigate an offence punishable under the Act without prior order of the metropolitan Magistrate or a Magistrate of the First Class, as the case may be, or make any arrest thereof without warrant. According to the first proviso if a

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police officer not below the rank of an Inspector of Police is authorised by the Government in this behalf by general or special order, he can also investigate in such offences without the order of Metropolitan Magistrate or the Magistrate of First Class, as the case may be, or make arrest thereof without a warrant. The second proviso provides that where an offence referred to in clause (e) of sub-section (1) of section 13 is sought to be investigated, such an investigation shall not be conducted without the order of a Police Officer not below the rank of a Superintendent of Police.

25. In the present case as admitted, no preliminary enquiry was conducted by the Superintendent of Police before lodging of the FIR, visualising the same to be not mandatory and he has passed order dated 03.06.2025 under Section 17 of the P.C. Act directing the Dy.S.P. to investigate.

26. The question arises whether the S.P., before lodging FIR was required to record satisfaction on the basis of credible known source of informations which came to his knowledge is required to reduced into writing upon satisfaction if cognizable offence is made out and whether, in the present case, in absence of specific information in respect of credible source information, registration of the FIR was not desirable?

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27. The question in respect of preliminary enquiry is desirable, is no more *res-integra*. The Supreme Court in the case of ***Central Bureau of Investigation (CBI) and Anr. v. @ T. H. Vijayalakshmi and Anr. decided on 08.10.2021 in Criminal Appeal No.1045/2021*** The Hon'ble Supreme Court has dealt with the situation where preliminary enquiry is not desirable, the course required alternatively is for filing of the FIR in following judgments:

(1) ***Thommandru Hannah Vijayalakshmi(supra)***

(2) ***Bhajan Lal (supra)***

(3) ***Lalita Kumari (Supra)***

(4) ***P. Sirajuddin (supra)***

(4) ***Bhagwant Kishore Joshi (supra)***

(5) ***Channakeshava H.D. (supra)***

(6) ***T.N. Sudhakar Reddy (supra)***

(7) ***Nirankar Nath Pandey (supra)***

28. The Apex Court in the case of ***Lalita Kumari (supra)***, held that before proceeding against a public servant in matters of corruption, it was desirable to have a preliminary enquiry. Much before ***Lalita Kumari (supra)***, the Apex Court in

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***P. Sirajuddin (supra)***, had observed dishonesty, which amounts to serious misdemeanor or misconduct of the type alleged in such cases an FIR is lodged against accused, there must be some sustainable preliminary enquiry into allegation of the responsible officer.

29. The Constitution Bench in *Lalita Kumari* (supra) put corruption cases under category in which preliminary enquiry may be made before registration of FIR. The relevant portion of *Lalita Kumari (Supra)*.

30. The Apex Court in the case of *T.N. Sudhakar Reddy (Supra)* explaining the terms "may be made" in respect of preliminary enquiry has further clarified *Lalita Kumari (Supra)* by following observations:

> ***19.*** *It was held that a preliminary inquiry is not mandatory if the information received by the police officer/Investigating Agency discloses the commission of a cognizable offence. However, if the preliminary inquiry is conducted, its scope is limited to determine whether the information prima facie reveals commission of a cognizable offence and does not extend to verifying its truthfulness. The necessity of a preliminary inquiry depends on the specific facts and circumstances of each case. For instance, corruption cases fall into a category where a preliminary inquiry 'may be made'.*
>
> ***20.*** *The use of the term 'may be made' as noted in Lalita Kumari (supra) underscores that conducting such an inquiry is discretionary in nature and not a mandatory obligation.*
>
> ***21.*** *Following the rationale of Lalita Kumari (supra), this Court in Managipet (supra) held that while the decision in Lalita Kumari (supra) noted that a preliminary inquiry was desirable in cases of alleged corruption, this does not vest a right in the accused to demand a*

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*preliminary inquiry. Whether the preliminary inquiry is required to be conducted or not will depend on the peculiar facts and circumstances of each case, and it cannot be said to be a mandatory requirement, in the absence of which, an FIR cannot be registered against the accused in corruption-related matters.*

***22.*** *The relevant paragraphs from Managipet (supra) are extracted herein below:—*

*"33. In the present case, the FIR itself shows that the information collected is in respect of disproportionate assets of the accused officer. The purpose of a preliminary inquiry is to screen wholly frivolous and motivated complaints, in furtherance of acting fairly and objectively. Herein, relevant information was available with the informant in respect of prima facie allegations disclosing a cognizable offence.* ***Therefore, once the officer recording the FIR is satisfied with such disclosure, he can proceed against the accused even without conducting any inquiry or by any other manner on the basis of the credible information received by him.*** *It cannot be said that the FIR is liable to be quashed for the reason that the preliminary inquiry was not conducted. The same can only be done if upon a reading of the entirety of an FIR, no offence is disclosed. Reference in this regard, is made to a judgment of this Court in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] wherein, this Court held inter alia that where the allegations made in the FIR 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 and also where a criminal proceeding is manifestly attended with mala fides 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.*

*34. Therefore, we hold that the preliminary inquiry warranted in Lalita Kumari (supra) is not required to be mandatorily conducted in all corruption cases. It has been reiterated by this Court in multiple instances that the type of preliminary inquiry to be conducted will depend on the facts and circumstances of each case.* ***There are no fixed parameters on which such inquiry can be said to be conducted. Therefore, any formal and informal collection of information disclosing a cognizable offence to the satisfaction of the person recording the FIR is sufficient.****"*

***27.*** *Thus, in our view the source information report dated 10th November, 2023, served as a critical piece of information which not only documented the financial discrepancies but also presented a clear, prima facie picture*

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> *of disproportionate assets accumulated by the respondent but also demanded immediate and thorough investigative action. As we have noted above, the scope of preliminary inquiries is not to verify the absolute truthfulness of information, and it is only to ascertain whether a cognizable offence is disclosed or not therefrom. The source information report in the case at hand clearly satisfies this criterion by comprehensively documenting the financial irregularities committed by the respondent and disclosed a prima facie case of commission of a cognizable offence involving acquisition of disproportionate assets, punishable under the PC Act. Thus, we are of the opinion that the High Court erred in concluding that the FIR was liable to be quashed on account of omission to conduct a preliminary inquiry." (emphasis supplied)*

31. The Apex Court further while considering the source information report dated 10th November, 2023, it found to have been recorded by the S.P., who has arrived at his satisfaction that the disclosure in such cases don't call for preliminary enquiry then he proceeded against the accused to lodge FIR on the basis of credible information received by him, whereas, in the present case, there is complete absence of recording collection of the source information report by the S.P. and based on same without recording the source information proceeded to institute FIR allegedly based on credible information and then he has set into motion to enquiry can not be that it was in alleged involvement of petitioner in corruption.

32. The Hon'ble Supreme Court in ***T.N. Sudhakar Reddy (Supra)***, upholding the action of the Superintendent of Police, who, based on the credible information, which has been

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taken note specifically in paragraph no. 5 of the said judgment found that the FIR is based on the credible material based on known source of information. Similarly, Hon'ble Supreme Court has also reproduced the source information in paragraph no. 9 in the case of ***Sri Channakesheva. H.D. (supra),*** which *inter alia* is reproduced hereinafter:

> *"9. The source report was prepared by respondent no.2-Deputy Superintendent of Police (DSP) and the same was submitted to the SP. The source report dated 05.10.2023 reads as follows:*
>
> *To*
>
> *The Superintendent of Police-01*
>
> *Karnataka Lokayukta*
>
> *Bangalore City Division*
>
> *Bangalore*
>
> *Sir*
>
> *Sub: Submission of Source Report in respect of Sri Channakeshava H.D. Executive Engineer, Karnataka*
>
> *Electricity Supply Corporation Limited, presently working at BESCOM, Jayanagar Division, Banashankari I stage, Bangalore for acquisition of wealth disproportionate to his known source of income-Reg:*
>
> *With reference to the subject cited above, it is learnt as per the basic information secured that Sri Channakeshava H.D. Executive Engineer, Karnataka Electricity Supply Corporation Limited, presently working at BESCOM, Jayanagar Division, Banashankari I stage, Bangalore has acquired properties disproportionate to his income.*
> …….
>
> *Sri Channakeshava joined the services of Karnataka Electricity Supply Corporation Limited, Munirabad on 11-11-1998 as Assistant Engineer and then promoted as Executive Engineer in BESCOM, Koramangala division and thereafter worked in Hebbal Division and at present he*

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*is working as Executive Engineer (V) in Jayanagar Division.*

*SOURCE OF CORRUPTION*

*There is information that during his Government tenure of service he has acquired illegal properties excessively in the names of third parties ( benami ) and also in the names of his family members.'*

*Then after giving details of the assets of the officer, source report concludes as follows:*

*"As stated above, it is prime facie found that Sri Channakeshava H.D. has acquired properties disproportionate to his known source of income from the check period i.e., from the date of joining in Government service, from 11-11-1998 till 30- 09-2023 to the tune of Rs. 6,64,67,000/- which works out to 92.54%. It is also learnt that the above S.G.O. might be possessing some more irregular/disproportionate properties elsewhere in Bangalore City and other places either in his name or in the names of third parties ( benami ). If search is made in his own house at Bangalore and other houses at Srirampura Main road, Amruthahalli, Jakkur, Father-in-law's house at Nagawara, the place of work of the S.G.O., and the residence of his sister, there are possibilities of finding some more properties both movable and immovable, gold, silver articles, cash and bank deposits in excess disproportionate to his known source of income. Hence it is requested to take suitable legal action against the above-mentioned Government Servant by a registering a case under section section 13(l)(b) read with section 13(2) of the PC Act 1988."*

33. The Apex Court finally summed up in paragraph no. 12 as follows:

*"12. To sum up, this Court has held that in matters of corruption a preliminary enquiry although desirable, but is not mandatory. In a case where a superior officer, based on a detailed source report disclosing the commission of a cognizable offence, passes an order for registration of FIR, the requirement of preliminary enquiry can be relaxed."*

34. From all the subsequent judgments, it appears

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that the Apex Court while clarifying the law laid down by the Apex Court in ***Lalita Kumari (Supra)***, mandate that there should be satisfaction of the officer concerned and recording of the credible source information, reproducing such information to arrive into his satisfaction before lodging of FIR becomes necessary in such cases where preliminary enquiry is not desirable and in absence of recording the date of information and source in detail in seisin of the source information report in detail and well reasoned, will certainly vitiate the accusation made in the FIR, if at all, the preliminary enquiry can be relaxed.

35. The petitioner has explained her source of income and the assets and also about the disclosure made before her joining in the Government Service. It has been claimed that she has regularly been assessed to income tax wherein assessment has been done in respect of all the Assessment Years from the year 2011-2012 till the date of lodging of FIR, which is a public document. The petitioner has also alleged *malafide* on the part of the S.P., S.V.U.

36. So far as the contention of the learned counsel for the S.V.U. that in relation to the Court exercising its jurisdiction under Section 226 of the Constitution of India or

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Section 482 Cr.P.C. with respect to quashing of the FIR, it has been considered by the Hon'ble Supreme Court in the case of *Neeharika Infrastructure Pvt. Ltd. (Supra)* that the police has statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into cognizable offences and the Court thwart any investigation into the cognizable offences. In this regard, I find that in the said judgment, the Hon'ble Supreme Court has held that the power of quashing should be exercised sparingly with a circumspection, in the 'rarest of rare cases' and Court cannot embark upon an enquiry as to the reliability or genuineness of the allegation. It has further been observed that First Information Report is not an encyclopedia, however, at the same time, the Court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly, the parameters laid down by the Apex Court in the case of ***R.P. Kapur vs. State of Punjab*** reported in ***1960 SCC Online SC 21*** and ***Bhajan Lal (Supra)***, has the jurisdiction to quash the FIR/complaint.

37. At the stage of FIR, the scope of examination is confined to the allegations as disclosed in the FIR alone. A three-Judge Bench of the Hon'ble Supreme Court of India in

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***State Of Karnataka s Muniswamy & Ors*** reported in ***(1977) 2 SCC 699*** examined the scope of jurisdiction of the High Court under Section 482 CrPC (Now 528 BNSS) and held that the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of process of the Court or that the ends of justice require that the proceeding ought to be quashed. The relevant portion is reproduced hereinunder:

> *"7. In the exercise of the wholesome power u/s 482 of the Act 2 of 1974 (Section 561 of 1898 Code), the High Court is entitled to quash a proceeding if it comes to the conclusion thist allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a count proceeding ought not to be permitted to degenerate into a weapon of harassment and persecution. In a criminal case, the veiled object behind lam prosecution, the very nature of the material on which the structure of the protection rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. Without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction."*

38. In the case of *Bhajan Lal (Supra)*, the Apex Court laid down as follows:

> *"102. In this backdrop of the interpretation*

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*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 extra-ordinary power under article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduce 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 in 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 un-controverted allegations made in the FIR or complaint and 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 allegation in the FIR do not constitute a cognizable offence hut constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a magistrate as contemplated under section 159 (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 of 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 malafide 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 private grudge"*

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39. In the case of *Bhajan Lal (Supra)*, the Apex Court gave a note of caution on the power of quashing of Criminal proceeding m the following words:

> *"103 We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases that the Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extra ordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice."*

40. In other words, when the allegations made in the complaint disclose the commission of an offence the complaint cannot be quashed by placing reliance on materials that pertain to the defence of the accused, for the truth or falsity of the allegations, as also the plausibility of the defence plea, can he determined only upon a proper investigation or at the stage of trial. I am also guided to take this view from the case of ***State of Bihar and Anr. Vs Mohd. Khalique and Anr.*** reported in ***(2002) 1 SCC 652***, wherein the Apex Court, while dealing with the quashing of FIR, observed as follows:

> *"7. In Bhajanlal case, this Court has also held that the power of quashing a criminal proceeding should be exercised sparingly and with circumspection and that loo in the rarest or rare cases. The present case is not rarest of rare case.*
>
> *8. In view of the settled legal position and as offences have been disclosed in the FIR, the High Court ought not to have interfered with the investigation and should have permitted the police to complete it. We*

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> *accordingly hold that the High Court has committed a grave error in quashing the entire proceedings and ought not to have thwarted the prosecution."*

41. I also find to take notice of the law laid down in ***Harshendra Kumar D. Vs Rebatilata Kiley & Ors.*** reported in ***(2011) 3 SCC 351***, the Hon'ble Supreme Court has made it clear that it is not an absolute rule of law that the High Court, while exercising its jurisdiction under Section 482 Cr.P.C. (Now, 528 BNSS) or, while exercising its revisional jurisdiction under Section 397 Cr.P.C. (Now, 457 BNSS), cannot, under any circumstances, look into the nature of public document or such materials, which are beyond suspicion or doubt, in order to ascertain if the criminal prosecution should or should not be allowed to proceed. In fact, the Supreme Court has also made it clear, in *Harshendra Kumar D. (supra)*, that no greater damage can be done to the reputation of a person than dragging him in a criminal case The Supreme Court has, therefore, held, in *Harshetidra Kumar D. (supra)*, that the High Court fell into grave error in not taking into consideration the un-controverted documents relating to the appellant's resignation from the post of director of the company, which, if looked into, would have made it clear that the appellant's resignation from the post of director of the company was much before the cheques had been

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issued by the company. The relevant observations, which appear. in this regard, at paragraph 25 and 26, in *Harshendra Kumat D. (supra)*, read as under:

> *25. In our judgment, the above observations cannot be read to mean that in a criminal case where trial is yet to take place and the matter at the stage of issuance of summons or taking cognizance, materials relied upon be the accused, which are in the nature of public documents or the materials which are beyond suspension or doubt, in no circumstance, can be looked into by the High Court in exercise of its jurisdiction under Section 482 or for that matter in exercise of revisional jurisdiction under Section 397 of the Code it is fairly settled now that while exercising inherent jurisdiction under Section 482 or revisional jurisdiction under Section 397 of the Code in a case where complaint is sought to be quashed, it is not proper for the High Court to consider the defence of the accused or embark upon an enquiry in respect of merits of the accusations. However, in an appropriate case, if on the face of the documents which are beyond suspension or doubt placed by the accused, the accusations against him cannot stand, it would be trivesty of justice if the accused is relegated to trial and he is asked to prove his defence before the trial court. In such a matter, for promotion of justice or to prevent injustice or abuse of process, the High Court may look into the materials which have significant bearing on the matter at prima facie stage.*
>
> *26 Criminal prosecution is a serious matter it affects the liberty of a person. No greater damage can be done to the reputation of a person than dragging him in a criminal case. In our opinion, the High Court fell into grave error in not taking into consideration the un-controverted documents relating to the appellant's resignation from the post of Director of the Company. Had these documents been considered by the High Court, it would have been apparent that the appellant has resigned much before the cheques were issued by the Company"*

42. The Apex Court in *Harshendra Kumar D. (supra)*, clarified that when the High Court is approached for quashing of a criminal prosecution in the exercise of its extraordinary jurisdiction under Section 482 Cr.P.C. (Now

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Section 538 BNSS) and in the exercise of its revisional jurisdiction under Section 397 Cr.P.C. (Now Section 457 BNSS), the Court must remain mindful that criminal prosecution directly impacts the liberty of an individual and that no greater injury can be inflicted upon a person's reputation by unnecessarily subjecting him to a criminal trial. Consequently, there is no absolute bar on the High Court's power to take into consideration any uncontroverted or unimpeachable document that is already on the record for the purpose of determining whether the criminal proceedings should be permitted to continue. Where, on the basis of such public or uncontroverted material, the Court is satisfied that allowing the prosecution to proceed would amount to an abuse of the process of the Court, it is not only empowered, but duty bound to quash the proceedings.

43. The question of *malafide* is concerned, the Hon'ble Supreme Court in the case of ***Renu Kumari Vs. Sanjay Kumar and others*** reported in ***(2008) 12 SCC 346*** has held as under:-

> *"8. Exercise of power under Section 482 CrPC in a case of this nature is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of CrPC. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely, (i) to give effect to an order under CrPC, (ii) to prevent abuse of the*

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*process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. The courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognises and preserves inherent powers of the High Courts. All courts, whether civil or criminal possess, in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in the course of administration of justice on the principle of quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsae esse non potest (when the law gives a person anything, it gives him that without which it cannot exist). While exercising the powers under the section, the court does not function as a court of appeal or revision. Inherent jurisdiction under the section, though wide, has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone the courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has the power to prevent abuse. It would be an abuse of process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers the court would be justified to quash any proceeding if it finds that initiation/continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the report, the court may examine the question of fact. When a report is sought to be quashed, it is permissible to look into the materials to assess what the report has alleged and whether any offence is made out even if the allegations are accepted in toto.*

*9. In R.P. Kapur v. State of Punjab [AIR 1960 SC 866 this Court summarised some categories of cases where inherent power can and should be exercised to quash the proceedings:*

*(i) where it manifestly appears that*

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*there is a legal bar against the institution or continuance e.g. want of sanction;*

*(ii) where the allegations in the first information report or complaint taken at their face value and accepted in their entirety do not constitute the offence alleged;*

*<u>(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.</u>" (emphasis supplied)*

44. It is, no doubt, correct that while exercising its inherent jurisdiction under Section 482 Cr.PC (528 BNSS), or its revisional jurisdiction under Section 397 IPC (457 BNSS) when a complaint or FIR is sought to be quashed, it is not open to the High Court to examine the defence of the accused or to embark upon an enquiry into the correctness or veracity of the allegations. Nonetheless, in appropriate cases, where the documents produced by the accused are of unimpeachable character and beyond suspicion or doubt, and such material demonstrably renders the accusations unsustainable, it would amount to a perversity of justice to compel the accused to undergo the ordeal of a criminal trial. To permit the prosecution to proceed in such circumstances would amount to a dermal of justice and would constitute a clear abuse of the process of the Court.

45. Whether the office order dated 03.06.2025 of

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the Superintendent of Police authorizing under Sections 17 and 18 of the P.C. Act, 1988 for investigation of offence under Sections 13(1)(b) r/w 13(2) and 12 of the Prevention of Corruption Act, 1988 (hereinafter referred to as the "P.C. Act") and 61(2) of the BNS, 2023 is sustainable in the eye of law?

46. As already discussed in above paragraphs, in the present case, the FIR without there being any disclosure of the source information in respect of properties, setting the FIR in motion by seeking authorization from the Special Court to proceed to search and seizure and at the same time the order passed under Section 17 by the Superintendent of Police time without any credible information get noticed in the FIR to the satisfaction of the officer.

47. Coupled with the above, it also stands well-settled that an FIR or complaint may be quashed if it is found to be actuated by *mala fides*, or if the allegations are so absurd or inherently improbable that no reasonable person would accept them as true. Likewise, quashing is warranted where the FIR or complains is demonstrably lodged as a counterblast.

48. In the present case, the Superintendent of Police, S.V.U. without conducting preliminary enquiry so as to ensure that invocation of criminal law raised on verified and

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objectively assessed material. In the present case, preliminary scrutiny by the competent departmental authority, namely, General Administration Department, Patna, ought to have been undertaken in accordance with the Government of Bihar order dated 29.08.2008, which mandates an examination of movable and immovable property, returns of the employee concerned. It was only upon such scrutiny disclosing any suspicious entry that the further course of action prescribed therein was to follow. Thus, procedure has not been adhered to in the present case. Instead, the FIR appears to have been registered with unwarranted haste, thereby leading credence to the allegation of ulterior motive. The decision of the Hon'ble Supreme Court relating to necessity of preliminary enquiry as discussed hereinabove are squarely applicable here.

49. Significantly, the Hon'ble Supreme Court, in case of *P. Sirajuddin (Supra)*, deemed it imperative to observe that:

> *"Before a public servant, whatever be his status, is publicly charged with acts, of dishonesty which amount to serious misdemeanor or misconduct of the type alleged in this case and a first information is lodged against him, there must be some suitable preliminary enquiry into the allegations by a responsible officer. The lodging of such a report against a person, specially one who like the appellant occupied the top position in a department, even if baseless, would do incalculable harm not only to the officer in particular but to the department he belonged to, in general. If the, Government had set up a Vigilance and Anti-Corruption Department as was done in the State of*

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> *Madras and the said department was entrusted with enquiries of this kind, no exception can be taken to an enquiry by officers of this department but any such enquiry must proceed in a fair and reasonable manner. The enquiring officer must not act under any preconceived idea of guilt of the person whose conduct was being enquired into or pursue the enquiry in such a manner as to lead to an inference that he was bent upon securing the conviction of the said person by adopting measures which are of doubtful validity or sanction. The means adopted no less than the end to be achieved must be impeccable."*

50. In a similar vein, Mudholkar, J., in ***State of Uttar Pradesh v Bhagwant Kishore Joshi*** reported in ***AIR 1964 SC 221***, delivering the opinion of the Curt, observed that:

> *"In the absence of any prohibition in the Code, express or implied. I am of the opinion that it is open to a police officer to make preliminary enquiries before registering an offence and making a full scale investigation into it."*

51. In *Bhajan Lal (supra)*, S.R. Pandian, J, speaking for the Court, affirmed the views earlier articulated in *Bhagwant Kishore (supra)* and *P. Sirajuddin (supra)*.

52. In light of the foregoing discussion. I find that the present case is appropriately covered by Category 7 of the illustrations set out in *Bhajan Lal (supra)*. The sand Category 7 is extracted hereinbelow for convenience:

> *"7) Where a criminal proceeding is manifestly attended with malafide 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 private grudge."*

53. If it is taken into account that on 29.05.2025,

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the petitioner had informed the Joint Secretary, General Administration Department, Patna vide letter/email informing that the contempt petition bearing MJC No. 643 of 2025 arising out of CWJC No. 3299 of 2024 has been allowed vide order dated 16.05.2025, in view of the admission made by the State in paragraph no. 10 of the show-cause for punishment order dated 25.05.2023 has been set aside by the Government vide Resolution No. 559 dated 10.01.2025 and has also informed in paragraph no. 15 that filing of LPA does not arise. In situation like this, it appears that the vigilance soon having been apprised of the said fact on 29.05.2025, appears to have got information regarding the disproportionate asset of the petitioner. The sequence of action taken by the officer with vested interest to tarnish the image of the petitioner, clearly manifest the malicious intention of the prosecution agency to harass the petitioner. Even the source of information in respect of disproportionate asset is unknown and undisclosed in the FIR dated 03.06.2025.

54. It is also worth to take notice that the record discloses that the raid undertaken by the official of S.V.U., Patna, was carried out using, *inter alia*, a vehicle bearing Registration No. BR01PO3976, which is stated to stand

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registered in the name of the Minister of Information Technology, Government of Bihar. The utilization of such a vehicle is, distinctly irregular. A statutory vigilance body such as, the special vigilance unit is ordinarily expected to employee only those vehicle that are officially allotted to it for the purpose of search and operational duties. The resort to an external vehicle, raises legitimate apprehension regarding the impartiality and propriety of the operation when viewed in the broader factual context of the case, these circumstances lends further credence to the petitioner's contentions.

55. The record reveals that preliminary scrutiny prescribed under the Government order issued by the Government of Bihar vide Letter No. VIG.Department/Estb./Misc./6192005/4927 dated 29.08.2008, wherein all the departmental heads were categorically directed to scrutinize the movable and immovable property, return of their employees and upon noticing any suspicious entry, to issue a show-cause notice prior to taking any further action, has not been complied with in the present case. In the present case, before lodging of the FIR such preliminary scrutiny if undertaken in accordance with the said government order in respect of the petitioner, who is a member of Bihar

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Administrative Service, who in accordance with the Bihar Government Servant Conduct Rules, 1976, had been regularly submitting her annual statements of assets and liabilities, in such circumstances, if any discrepancies were noticed, the same ought to have been clarified from her by the vigilance authority directly or through departmental hierarchy under whom the petitioner was serving.

56. In my opinion, when a breach is brought to the notice of the Court at an early stage of the trial, the court will have to consider the nature and extent of the violation and pass appropriate orders in the light of the above consideration of law to analyse the action adopted by the vigilance viewed cumulatively with other materials on record. What emerges is that the uncontroverted document placed before this Court, prima facie, indicate that initiation of criminal proceeding against the petitioner appears to have been actuated by the ulterior and oblique motive for meeting the prosecution to proceed in the face of such indications would amount to a failure of judicial scrutiny, all the more so where the matter manifestly falls within the illustrative categories, delineated by the Hon'ble Supreme Court in case of *Bhajan Lal (Supra)*.

57. The Hon'ble Supreme Court in the case of ***State***

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***of Madhya Pradesh & Ors. vs. Shri Ram Singh*** reported in ***AIR 2000 Supreme Court 870*** relying on its earlier judgment passed in State of ***Bhajan Lal (supra),*** has observed that "*it is of utmost importance that investigation into criminal offence must always be free from any objectionable features or infirmities which may legitimately lead to the grievance of the accused that the work of investigation is carried on unfairly and with any ulterior motive.*"

58. The Hon'ble Supreme Court, in the case of ***Vineet Kumar & Ors. vs. the State of Uttar Pradesh & Anr.*** reported in ***(2017) 13 SCC 369***, observed that judicial process is a solemn process, which cannot be allowed to be converted into an instrument of oppression or harassment. The observation as made in paragraph no. 39 is worth to be taken note of, which is reproduced hereinafter:

> *"**39.** The fact is that no medical examination was got done on the date of incident or even on the next day or on 7-11-2015, when the IO asked the complainant and her husband to get done the medical examination. Subsequently it was done on 20-11-2015, which was wholly irrelevant. Apart from bald assertions made by the complainant that all the accused have raped her, there was nothing which could have led the courts to form an opinion that the present case is a fit case of prosecution which ought to be launched. We are conscious that the statement given by the prosecutrix/complainant under Section 164 CrPC is not to be lightly brushed away but the statement was required to be considered along with antecedents, facts and circumstances as noted above."*

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59. Thus, the State cannot prosecute the petitioner without reasonable prospect of conviction in view of the discussion(s)/observation(s) made hereinabove. The Prosecution of the accused on the basis of the investigation, in such circumstances, cannot be allowed. Accordingly, the FIR bearing Special Vigilance Unit P.S. Case No. 10 of 2025 is hereby **quashed and set aside**.

60. The present quashing application stands disposed of.

**(Purnendu Singh, J)**

Niraj/-

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| **AFR/NAFR** | |
| **CAV DATE** | N/A |
| **Uploading Date** | 05.12.2025 |
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