

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1421 of 2024

Arising Out of PS. Case No.-156 Year-2024 Thana- RAGHUNATHPUR District- Siwan

Md. Tanweer Alam, son of Neyaj Ahmad, resident of village - Baswaria, P.S.
Lauriya, District - West Champaran, Bettiah

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Department of Home (Police), Government of Bihar, Sardar Patel Bhawan, Bailey Road, Patna.
2. The Deputy Inspector General of Police, Saran at Chapra
3. The Superintendent of Police, Siwan
4. The S.D.P.O. Mairwa, Siwan
5. The S.H.O., Police Station -Raghunathpur, Siwan
6. Sahodra Devi, wife of Jairam Sah, resident of village - Seechani, P.S. - Raghunathpur, District - Siwan

... .. Respondents

with

Criminal Writ Jurisdiction Case No. 1720 of 2024

Arising Out of PS. Case No.-156 Year-2024 Thana- RAGHUNATHPUR District- Siwan

Sanjay Kumar Singh, son of Ram Dayal Singh, resident of village- Tarauni,
Shubhankerpur, P.S.- Bahadurpur, District-Darbhanga

... .. Petitioners

Versus

1. The State of Bihar through the Director General of Police, State of Bihar, Patna.
2. The Superintendent of Police, Siwan
3. The Sub-Divisional Police Officer, Siwan
4. The S.H.O. of Raghunathpur, P.S. Siwan

... .. Respondents

Appearance :
(In Criminal Writ Jurisdiction Case No. 1421 of 2024)

For the Petitioner : Mr. Ansul, Sr. Advocate
Mr. Nafisu Zzoha, Advocate
For the Respondents : Mr. Kameshwar Kumar, G.P.-17

(In Criminal Writ Jurisdiction Case No. 1720 of 2024)



For the Petitioner : Mr. Rajesh Kumar Chaudhary, Advocate
For the Respondent/s : Mr. Prashant Pratap, G.P.-2
Mr. Asit Kumar Jha, A.C. to G.P.-2

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
C.A.V. JUDGMENT
Date : 20-11-2025

Since in both these writ petitions the same F.I.R. i.e. Raghunathpur P.S. Case No.156 of 2024 has been assailed, they have been heard together and are being disposed of by this common judgment and order.

2. Heard Mr. Ansul, learned Senior counsel for the petitioner in Cr. W.J.C. No.1421 of 2024, Mr. Rajesh Kumar Choudhary, learned counsel for the petitioner in Cr.W.J.C. No.1720 of 2024 and learned counsel appearing for the respondent-State.

3. In these cases, the petitioners have prayed to quash the F.I.R. vide Raghunathpur P.S. Case No.156 of 2024 registered for the offence under section 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "S.C/S.T. Act").

4. The petitioner of Cr.W.J.C. No.1421 of 2024 is the then S.H.O. of Raghunathpur Police Station and the petitioner of Cr.W.J.C. No.1720 of 2024 was the Investigating Officer of Raghunathpur P.S. Case No.271 of 2022.

5. The present F.I.R. has been instituted by the



informant - Vijay Kumar Choudhary, incumbent S.H.O. of Raghunathpur Police Station on the basis of a memo received from the Superintendent of Police, Siwan. In the F.I.R., it has been alleged that a file was received from the National Commission for Scheduled Tribes wherein an enquiry in relation to Raghunathpur P.S. Case No.271 of 2022 was conducted and it was found that the petitioners being the then S.H.O. of Raghunathpur Police Station and the Investigation Officer of Raghunathpur P.S. Case No.271 of 2022 have committed negligence in duty. *Firstly*, the aforesaid case was instituted after a delay of five days; *secondly*, five persons had sustained head injuries, yet section 307 was not added in the F.I.R. and *thirdly*, the Investigating Officer of the case did not investigate the aforesaid case properly since neither did he receive the injury report of injured Pintu Kumar nor did he record his statement. It is also alleged that the Investigating Officer of the case did not record the statement of the witnesses from the informant side and only recorded the statement of the accused side.

Submission of the petitioner in Cr.W.J.C. No.1421 of 2024

6. It has been submitted by learned Senior Counsel for the petitioner - S.H.O. that the respondent no.6



herein is the informant of Raghunathpur P.S. Case No.271 of 2022 dated 26.11.2022, who gave her *fardebeyan* before the P.S.I. of Siwan Town Police Station at emergency ward of Sadar Hospital, Siwan on 21.11.2022 and the same was forwarded to Raghunathpur police station on the same day but the original copy of the *fardebeyan* was not sent to the concerned police station and when the petitioner, who was the S.H.O. of Raghunathpur police station, got the information about the *fardebeyan* through the Siwan Town police station then he sent the *Chaukidar* to bring the original *fardebeyan* and the same was received on 26.11.2022 and just after receiving the same, he instituted Raghunathpur P.S. Case No.271 of 2022 on the same day i.e. 26.11.2022 therefore, it cannot be said that there is negligence on the part of the petitioner since as soon as received the original copy of the *fardebeyan*, the F.I.R. was duly instituted.

7. It has also been submitted by learned Senior Counsel for the petitioner that the *fardebeyan* of the informant was not recorded by the petitioner and it was not in the jurisdiction of the petitioner as the *fardebeyan* of the informant was recorded in Sadar Hospital, Siwan and when the petitioner received the original copy of the *fardebeyan* he instituted the



F.I.R on the same day, so he cannot be held responsible for any delay in lodging the F.I.R.

8. It is next submitted that the real fact is that a free fight had taken place in between the informant, one Sahodhara Devi and Kamlendra Mishra for a land, in which both sides have sustained injuries and said Kamledra Mishra lodged an F.I.R. vide Raghunathpur P.S. Case No.266 of 2022 on 21.11.2022 against the informant and others. From the side of said Kamlendra Mishra, altogether seven persons sustained injuries. However, Sahodhara Devi, after the incident, did not go to nearby Primary Health Centre, which is about 5 to 10 km. from the place of occurrence but she along with all five injured went to Sadar Hospital, Siwan for the treatment which is more than 40 K.M. from the place of occurrence where the informant gave her *fardbeyan* at 1.30 P.M., based on which, Raghunathpur P.S. Case No.271 of 2022 was registered. It has also been submitted that if five persons had sustained head injuries, it is reasonable to expect them to seek medical treatment in the nearby Primary Health Centre but the aforesaid informant went to sadar Hospital, Siwan and after more than 2 hours their treatment started which also create doubt upon entire prosecution.



9. The next submission of learned counsel for the petitioner is that all the victims injured were examined by the doctor of Sadar Hospital, Siwan and he had found all the injuries sustained by the injured persons to be simple in nature. Thereafter the S.D.P.O. Siwan Sadar supervised the case and he did not find the case under section 307 of the Indian Penal Code as also the concerned S.P. in his report also not add section 307 Indian Penal Code and lastly the S.P. submitted his final report dated 31.03.2023, in which the case was found true under sections 448, 341, 323, 354, 504, 506/34 Indian Penal Code and under sections 3 (1) (r), 3(1)(s)/3 (2) (va) SC/ST Act. Therefore, it is the submission of learned Senior Counsel for the petitioner that even after scrutiny by the two superior officers, it was found that the case under section 307 of the Indian Penal Code was not made out, therefore, the petitioner cannot be held guilty for not invoking section 307 of the Indian Penal Code in the F.I.R.

10. It is the submission of learned counsel for the petitioner that since the petitioner has not examined the injured/victim so he could not incorporate section 307 and other allied sections of the Indian Penal Code in the F.I.R. Moreover, the Investigating Officer of the case is responsible to collect all



the materials like injury report or statement of witnesses / injured and thereafter he could add additional sections after the order of the supervising authority. It is also submitted that section 4 of the SC/ST Act provides punishment for negligence in duty but the petitioner never neglected his duties and he had performed his duties without any willful negligence on his part and therefore, the ingredients of section 4 of the SC/ST Act is not made out against the petitioner.

11. It has further been submitted by learned Senior Counsel for the petitioner that for the same incident, the petitioner is facing a departmental proceeding also.

Submission of the petitioner in Cr.W.J.C. No. 1720 of 2024

12. The learned counsel for the petitioner - I.O. has reiterated the facts of the case and has further submitted that after being assigned the duty to conduct the investigation of Raghunathpur P.S. Case no.271 of 2022, he went to the place of occurrence and tried to record the statements of the informant of the said case, however, the informant along with her family members were not found present at their house. After due inquiry done from the neighbourhood of the informant, it came to the notice of the petitioner that they had left their house fearing arrest.

13. The learned counsel for the petitioner-I.O.



further submits that on proper investigation and perusal of injury report and medical reports, the petitioner had submitted the memo of charge excluding section 307 of the Indian Penal Code, since the injuries on the injured persons were found to be simple in nature, which is also evident from the case diary of the case. Lastly, the learned counsel for the petitioner submits that the allegations made against the petitioner are false and frivolous in nature and that the petitioner has not been negligent in performing his duties and has completed the investigation in accordance with law.

14. The State has filed its counter affidavits in both the cases stating therein, that the FIR may not be quashed as the cases of the petitioners are still under inquiry and thus these petitions are not maintainable on the ground of it being premature. The learned counsel for the respondents has categorically denied the contention of the petitioner - I.O. and submits that the present F.I.R. being Raghunathpur P.S. Case no. 156 of 2024 did not arise from Raghunathpur P.S. Case no.266 of 2022, rather it arose from Raghunathpur P.S. Case no. 271 of 2022, which is a case of SC/ST (POA) Act. Furthermore, the present FIR has been registered pursuant to the findings and recommendations of the National Commission for Scheduled



Castes in its review dated 11.06.2024, after it observed adversely against the petitioners, alleging serious lapses and dereliction of duty committed by both the petitioners during the investigation of the said SC/ST case.

15. The learned counsel for the respondents further submits that the written explanation given by the petitioner-I.O. before the S.P., Siwan, solely does not absolve him of the serious procedural lapses and dereliction of duty found during the investigation as observed by the Commission.

16. Lastly, the learned counsel for the respondent-State submits that both the petitioners have been negligent and biased during the investigation of the said SC/ST case and have not conducted the investigation properly and have even failed to discharge their legal duties in accordance with law.

17. I have considered the submissions of the parties and perused the materials on record.

18. Both the petitioners being police officers have been arrayed as an accused in the impugned F.I.R. on the basis of allegation that they have acted negligently while performing their official duties, which is an offence under section 4 of the Scheduled Castes and Scheduled Tribes



(Prevention of Atrocities) Act, 1989. The aforesaid section 4 reads as under:-

“4. Punishment for neglect of duties.— (1)

Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, wilfully neglects his duties required to be performed by him under this Act and the rules made thereunder, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

(2) The duties of public servant referred to in sub-section (1) shall include—

- (a) to read out to an informant the information given orally, and reduced to writing by the officer in charge of the police station, before taking the signature of the informant;*
- (b) to register a complaint or a First Information Report under this Act and other relevant provisions and to register it under appropriate sections of this Act;*
- (c) to furnish a copy of the information so recorded forthwith to the informant;*
- (d) to record the statement of the victims or witnesses;*
- (e) to conduct the investigation and*



file charge sheet in the Special Court or the Exclusive Special Court within a period of sixty days, and to explain the delay if any, in writing;

(f) to correctly prepare, frame and translate any document or electronic record;

(g) to perform any other duty specified in this Act or the rules made thereunder:

Provided that the charges in this regard against the public servant shall be booked on the recommendation of an administrative enquiry.

(3) The cognizance in respect of any dereliction of duty referred to in subsection (2) by a public servant shall be taken by the Special Court or the Exclusive Special Court and shall give direction for penal proceedings against such public servant.”

19. The Hon’ble Supreme Court in the case of ***State of GNCT of Delhi and Ors. vs. Praveen Kumar @ Prashanth*** reported as ***(2024) SCC OnLine SC 1591*** has held as follows:-

“13. *Section 4(1), interpreted by the golden rule, has the following facets:*

i. Firstly, section 4(1) is meant to operate against a public servant,



and the threshold requirement is that the public servant shall not be a member of a Scheduled Caste or a Scheduled Tribe;

*ii. **Secondly, such a public servant willfully neglects his duties, as mandated under the Act of 1989 and the Rules of 1995.***

*13.1. Section 4(2) has set out the duties for performance by a public servant and sub-section (2) uses the word 'include'. The word 'include' is a phrase of extension and not of restrictive connotations. The word 'include' is not equivalent to 'mean'. The word 'include' is very generally used in interpretation clauses in order to enlarge the meaning of the words or phrases occurring in the body of the statute. [See *Dilworth v. Commissioner of Stamps* 1899 AC 1990, 105-106; *South Gujarat Roofing Tiles Manufacturers Association v. State of Gujarat*, 1976 (4) SCC 601; *Dadaji alias Dina v. Sukhdeobabu*, 1980 (1) SCC 621.*

13.2 The words and phrases in sub-section (2) must be construed as comprehending not only such acts as they signify according to their natural import but also those which the interpretation clause declares that they shall include.



In the case on hand, the dispute is not on whether the alleged commission or omission comes within any of the clauses of subsection (2) of section 4. The consideration is on the interpretation of the proviso to sub-section (2) of section 4 and consequent cognizance under section 4(3) of legal proceedings. Conversely, whether cognizance of an offence can be directed/carried out without the recommendation of the administrative enquiry.

13.3 *In other words, to set in motion the penal proceedings including taking cognizance for an offence of commission and omission under section 4(2) of the Act of 1989, the recommendation of the administrative enquiry is a sine qua non. The proviso is an inbuilt safeguard to the public servant from initiation of prosecution by every dissatisfied complainant. On appreciation of the offences covered by section 3 and the nature of offences conversely dealt with under section 4 of the Act of 1989, it is noted that a complaint under section 3 presupposes insult, accusation, victimization, etc. of a member of the Scheduled Castes and Scheduled Tribes by a non-Scheduled Caste / Tribe person. However, the commission or omission by a public servant is rendered*



*as an offence when the public servant contravenes the duties spelt in section 4(2) of the Act of 1989 read with the Rules of 1995 and by a recommendation made to that effect. **The test in an enquiry is whether the public servant willfully neglected the duties required to be performed by the public servant under the Act of 1989 or not***

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Interpreting the proviso to subsection (2) of section 4, on the principles noted above, we notice that the proviso has an important role to play and in the scheme of proceedings under section 4 of the Act of 1989, acts as a condition precedent. Therefore, the commission or omission of any of the duties by the public servant becomes a cognizable offence against the public servant only on the recommendation of the administrative enquiry, for in law, an offence means any act or omission made punishable by any law for the time being in force. A combined reading of subsections (1), (2) and (3) of section 4, would demonstrate that the commission or omission by a public servant has penal consequences and the willful neglect is recommended by an administrative enquiry and the cognizance can be taken thereafter. The



recommendation of administrative enquiry on alleged failure of duty or function by a public servant would make the neglect of an offence clear and the cognizance of such an offence is legal. The competent court can take cognizance of the commission or omission of any duty specified under sub-section (2) of section 4 when made along with the recommendation and direct legal proceedings. Therefore, to constitute a prima facie case of negligence of duty, the proviso to subsection (2) of section 4 contemplates an administrative enquiry and recommendations.

14. *In law, an administrative enquiry presupposes an enquiry into the circumstances in which a public servant has a reason for not acting as expected by the provisions of the Act or whether willfully neglected the duties assigned to the public servant by the Act of 1989.” (emphasis supplied).*

20. The Hon’ble Supreme Court in the case of ***State of Orissa vs. Mohd. Illiyas***, reported as ***(2006) 1 SCC 275*** has held as follows:-

“9. At this juncture it is desirable to consider the true import of the word “wilful”. An act is said to be “wilful” if



it is intentional, conscious and deliberate. (See Rakapalli Raja Rama Gopala Rao v. Naragani Govinda Sehararao [(1989) 4 SCC 255].

10. The expression “wilful” excludes casual, accidental, bona fide or unintentional acts or genuine inability. It is to be noted that a wilful act does not encompass accidental, involuntary, or negligent. It must be intentional, deliberate, calculated and conscious with full knowledge of legal consequences flowing therefrom. The expression “wilful” means an act done with a bad purpose, with an evil motive.
11. “Wilful” is a word of familiar use in every branch of law, and although in some branches of law it may have a special meaning, it generally, as used in courts of law, implies nothing blameable, but merely that the person of whose action or default the expression is used is a free agent, and that what has been done arises from the spontaneous action of his will. It amounts to nothing more than this, that he knows what he is doing, and intends to do what he is doing, and is a free agent. (Per Bowen, L.J. in Young and Harston's Contract, Re [(1885) 31 Ch D 168 : (1881-85) All ER Rep Ext 1239



(CA)]. It does not necessarily connote blame, although the word is more commonly used for bad conduct than of good. (See Wheeler v. New Merton Board Mills [(1933) 2 KB 669 : 1933 All ER Rep 28 (CA)]. Whatever is intentional is wilful. (Per Day, J. in Gayford v. Chouler [(1898) 1 QB 316 : 67 LJQB 404] .) As observed by Russel, C.J. in R. v. Senior [(1899) 1 QB 283 : 68 LJQB 175] “wilfully” means deliberately and intentionally.” (emphasis supplied).

21. The aforesaid law has been reiterated by the Hon’ble Supreme Court in the case of ***U.N. Bora vs. Assam Roller Flour Mills Assn.*** reported as ***(2022) 1 SCC 101*** and ***Balwantbhai Somabhai Bhandari vs. Hiralal Somabhai Contractor*** reported as ***(2023) 17 SCC 545***.

22. From the reading of the aforesaid decisions and section 4 of the S.C./S.T. Act, it is apparent that the negligence in performance of duty has to be deliberate and willful on the part of the public servant. It is discernible that negligence should be willful and therefore, it is incumbent upon the authority, who is proceeding while invoking the aforesaid provision, to come to a conclusion that the act of such public servant performing the required duties are done with a willful



negligence. The meaning of 'willful negligence' means any act done with intention and knowledge.

23. Now, turning to the facts of the present case, from reading of the records, *firstly* it appears that the *fardebeyan* of the informant which was recorded at Sadar Hospital, Siwan falls out of the jurisdiction of Raghunath police station and the aforesaid Raghunathpur police station did not receive the original copy of the *fardebeyan* and when the original copy of the *fardebeyan* was made available, immediately thereafter the F.I.R. was lodged. *Secondly*, the injuries sustained by the victim are simple in nature and therefore, the petitioners after noting the medical report as also the report of the superior officers did not invoke section 307 of the Indian Penal Code in the F.I.R.. *Lastly*, while the petitioner - I.O. went to the house of the informant to record her statement, it was found that the informant was not in her house and as such, the statement could not be recorded.

24. From the aforesaid facts, it does not appear that the petitioners, who are the then S.H.O. of Raghunathpur Police Station and the I.O. of the concerned case, have deliberately and willfully neglected the performance of their duties. The initiation of criminal proceedings against the police



officers cannot be invoked *de hors* the mandatory provisions provided under section 4 of the S.C./S.T. Act.

25. In light of the aforesaid facts and circumstances, the continuation of the present criminal proceeding against the petitioners would be an abuse of the process of the Court.

26. Accordingly, these petitions are allowed and the impugned F.I.R. being Raghunathpur P.S. Case No.156 of 2024 and all consequential proceedings arising out of the aforesaid F.I.R. are hereby quashed *qua* the petitioners.

(Sandeep Kumar, J)

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AFR/NAFR	N.A.F.R.
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