

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54119 of 2025

Arising Out of PS. Case No.-37 Year-2012 Thana- VISHAMBHARPUR District- Gopalganj

Kundan Kumar S/o- Late Bhagya Narayan Singh, R/o Village and Post-
Govind Pitaughia, P.S.- Mahindwara, District- Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Superintendent of Police Gopalganj, District- Gopalganj
3. The Officer In Charge of Bishambharpur Police Station Gopalganj

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Uday Prakash Shrarma, Advocate
		Mr. Kaushik Anand, Advocate
For the Opposite Party/s	:	Mr.Kalyan Shankar, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 16-12-2025

Heard learned counsel appearing on behalf of the petitioner; learned counsel for the opposite party no. 2 and learned APP for the State.

2. The petitioner has preferred the application under Section 482 Cr.P.C. / 528 BNSS for quashing of FIR bearing Bishambharpur P.S. Case No. 37/ 2012 dated 31.05.2012 registered under Section 147, 149, 341, 323, 332, 353, 435, 427 and 504 of the Indian Penal Code, as well as, the notice under Section 94 of the BNSS and the warrant of arrest issued by the learned Chief Judicial Magistrate, Gopalganj.

3. The prosecution story, in brief, is that the



informant, who is the Principal of Rajkiya Polytechnic College, Gopalganj, has alleged that on 31.05.2012 some students entered into the classrooms and started using abusive and unparliamentary language. They allegedly assaulted the teachers and other staff of the college. They also vandalized the college property, and set fire to the private vehicle of the Principal as well as several motorcycles. The students also vandalized computer chairs and *almirahs* and set them on fire, and also broke window panes by pelting stones. In the said incident, two persons sustained injuries. The FIR has been lodged against 54 students, including the petitioner.

4. Learned counsel appearing on behalf of the petitioner submitted that the petitioner got admission in Rajkiya Polytechnic College, Gopalganj on 10.07.2020. The FIR in connection with Bishambharpur P.S. Case No. 37/ 2012, out of which, the present quashing application under Section 528 BNSS, arises was lodged on 31.05.2012, making 54 students as accused including the petitioner by the informant, who is principal of the said institute. He further submitted that the petitioner was selected on the post of constable in CISF and he had joined as constable on 23.08.2010 and from the face of the FIR, it would appear that the petitioner merely being enrolled as



a student and his name having not been deleted from the college, is facing prosecution for the FIR which was lodged on 31.05.2012, subsequent to his appointment as Constable in CISF on 23.08.2010. When the petitioner came to know that he is named in the said FIR, he *bonafidely* informed the same to the concerned officer of the CISF. Thereafter, an inquiry was held and the inquiry officer on the basis of attendance register available in the school, arrived at a finding that the petitioner was present in Unit IG Mint, Noida on 31.05.2012 on the date of occurrence. Learned counsel further submitted that the said fact was also recorded by the Superintendent of Police, Gopalganj, that on the date of occurrence, i.e., 31.05.2012, the petitioner was present in CISF Unit IF Mint, Noida, therefore, the Superintendent of Police had directed to remove the name of the petitioner from the column of the accused.

5. Learned APP appearing on behalf of the State submitted that it is well settled principle of law that while exercising the powers under Section 482 Cr.P.C. or under Article 226/ 227 of the Constitution of India, the court would not interfere with investigation in cases which are cognizable. It is only in cases where no cognizable offence or offence of any kind is disclosed in the First Information Report then the court



will not permit any investigation to go on. On these grounds, learned counsel submitted that the Court should restrain itself from usurping or complementing the statutory duty of the police, and while exercising extraordinary jurisdiction, interference to quash an FIR or complaint is warranted only in exceptional cases, strictly within the parameters laid down by the Hon'ble Supreme Court in case of ***Neeharika Infrastructure Pvt. Ltd. vs State of Maharashtra and Anr.***, reported in, ***AIR 2021 SC 1918***

6. Heard the parties.

7. The Apex court in case of ***Neeharika Infrastructure (Supra)***, held that the High Courts while exercising its jurisdiction under Article 226 of the Constitution of India or Section 482 CrPC, for quashing of FIR, must sparingly exercise its power with circumspection in the rarest of rare cases, and in this regard the relevant paragraphs of the aforesaid judgment is reproduced hereinafter:

10.2. In Kurukshetra University [Kurukshetra University v. State of Haryana, (1977) 4 SCC 451 : 1977 SCC (Cri) 613], this Court observed and held that inherent powers under Section 482CrPC do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice; that statutory power has to be exercised sparingly with circumspection and in the rarest of rare cases. In the case before this Court, the High Court quashed the first information report filed by the Kurukshetra University through Warden and that too without issuing notice to the University, in exercise of inherent powers under Section 482 CrPC. This Court noticed and observed that the High Court



was not justified in quashing the FIR when the police had not even commenced investigation into the complaint filed by the Warden of the University and no proceedings were at all pending before any Court in pursuance of the FIR.

13.4. The power of quashing should be exercised sparingly with circumspection, in the “rarest of rare cases”. (The rarest of rare cases standard in its application for quashing under Section 482CrPC is not to be confused with the norm which has been formulated in the context of the death penalty, as explained previously by this Court.)

8. The law in respect of quashing of FIR in exercise of jurisdiction under Section 482 Cr.P.C./528 BNSS and Article 226 of the Constitution of India has been finally settled in case of ***Haryana & Ors. vs. Ch. Bhajan Lal & Ors.*** reported in ***(1992) Supp (1) SCC 335***, stating that the present FIR is fit to be quashed and set aside in light of the law laid down by the Apex Court, particularly having fulfilled the conditions as mentioned in paragraph no. 102 of the ***Bhajan Lal (supra)***, which is as under:

“102. In this backdrop of the interpretation of the various relevant provisions of the code under chapter xiv and of the principles of law enunciated by this court in a series of decisions relating to the exercise of the extraordinary power under article 226 or the inherent powers under Section 482 of the Code which we have extracted and 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"

9. Having heard the rival submissions made on behalf of the parties and having perused the allegation made in the FIR, it is apparent that the occurrence took place on 31.05.2012, pursuant to which the FIR in connection with Bishambharpur P.S. Case No.37 of 2012 was lodged. The inquiry officer of the department where the petitioner is working on the basis of attendance register available in the school arrived at the finding that the petitioner was present in Unit IG Mint, Noida on



31.05.2012 on the date of occurrence. The Superintendent of Police upon investigation and receiving information had directed to remove the name of the petitioner from the list of the accused. In such circumstances, if the petitioner is allowed to face criminal prosecution, the same will be abuse of process of law.

10. I find that no case under Sections 147, 149, 341, 323, 332, 353, 435, 427 and 504 of the Indian Penal Code is made out against the petitioners. Accordingly, the FIR bearing Bishambharpur P.S. Case No. 37/ 2012 dated 31.05.2012 is hereby **set aside and quashed** with respect to the petitioner.

11. Accordingly, the quashing application stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
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