

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26792 of 2025

Arising Out of PS. Case No.-117 Year-2016 Thana- COMPLAINT CASE - DANAPUR
District- Patna

Pradeep Pandey @ Pradeep Kumar Pandey S/O Late Parshuram Pandey R/O
Village and Post- Rampur, P.S- Nawanagar, Distt.- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Neha Devi W/O Pradeep Pandey, D/O Amarendra Tiwary R/O Village-
Tiwariachak, P.S- Naubatpur, Distt.- Patna.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 48588 of 2025

Arising Out of PS. Case No.-117 Year-2016 Thana- COMPLAINT CASE - DANAPUR
District- Patna

Prabhat Pandey @ Chhote Pandey @ Prabhat Kumar Pandey S/o Late
Parasuram Pandey R/o Village and P.O.- Rampur, P.S.- Nawanagar, District-
Buxar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Neha Devi W/o Pradeep Pandey, D/o Late Amarendra Tiwari R/o Vill-
Tiwariachak, P.S.- Naubatpur, Distt- Patna

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 26792 of 2025)

For the Petitioner/s : Mr.Nagendra Upadhyay, Advocate
For the Opposite Party/s : Mr.Ramchandra Sahni, APP
For OP NO.2 : Mr. Ranjan Kumar Singh, Advocate
Ms. Jyoti Kumari, Advocate

(In CRIMINAL MISCELLANEOUS No. 48588 of 2025)

For the Petitioner/s : Mr.Mayashankar Mishra, Advocate
For the Opposite Party/s : Mr.Dilip Kumar No. 1, APP
For OP NO.2 : Mr. Ranjan Kumar Singh, Advocate
Ms. Jyoti Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 04-11-2025 Heard learned counsel appearing on behalf of the



petitioners, learned APP for the State and learned counsel for the O.P. No.2.

2. The present applications have been filed under Section 528 of BNSS for quashing the order dated 30.01.2024 passed by the learned Sub-Divisional Judicial Magistrate, Danapur in Complaint Case No. 117 (C)/2016, by which the learned Sub-Divisional Judicial Magistrate has vacated the stay of further proceeding of the aforesaid case granted by this Court *vide* order dated 09.01.2020 passed in Cr. Misc. No.40780/2018. Petitioner (Prabhat Pandey @ Chhote Pandey @ Prabhat Kumar Pandey) of Cr. Misc. No.48588 of 2025 against the order dated 30.01.2024 passed by the learned Sub-Divisional Judicial Magistrate, Danapur, has preferred Cr. Revision Case No.188 of 2024, which was also rejected *vide* order dated 21.04.2025 by the learned Additional Sessions Judge-V, Danapur, affirming the order dated 30.01.2024 and, as such, petitioners also seek quashing of the same.

3. Learned counsel appearing on behalf of the petitioners submitted that a co-ordinate Bench of this Court *vide* order dated 09.01.2020 passed in Cr. Misc. No.40780 of 2018, has stayed the further proceeding in complaint Case No. 117(C) of 2016. However, the learned District Court in the most



arbitrary manner has vacated the stay granted by this Court and directed the petitioners to appear physically for framing of charge. In this regard, he has placed reliance upon the judgment of the Apex Court in case of **High Court Bar Association, Allahabad Versus State of U.P. & Ors. (Criminal Appeal No.3589 of 2023)**. The essence of the judgment is that once the stay has been granted, it cannot be vacated automatically without hearing the parties.

4. Considering the aforesaid submissions, I find it apt to reproduce paragraph nos.36 to 38 of the judgment rendered by the Apex Court in case of **High Court Bar Association (Supra)**, which is as under:-

“36. Hence, with greatest respect to the Bench which decided the case, we are unable to concur with the directions issued in paragraphs 36 and 37 of the decision in the case of Asian Resurfacing¹. We hold that there cannot be automatic vacation of stay granted by the High Court. We do not approve the direction issued to decide all the cases in which an interim stay has been granted on a day-to-day basis within a time frame. We hold that such blanket directions cannot be issued in the exercise of the jurisdiction under Article 142 of the Constitution of India. We answer both the questions framed in paragraph 5 above in the negative.

37. Subject to what we have held earlier, we summarise our main conclusions as follows: a. A direction that all the interim orders of stay of proceedings passed by every High Court automatically expire only by reason of lapse of time cannot be issued in the exercise of the jurisdiction of this Court under Article 142 of the Constitution of India; b. Important parameters for the exercise of the jurisdiction under Article 142 of the Constitution of India which are relevant for deciding the



reference are as follows: (i) The jurisdiction can be exercised to do complete justice between the parties before the Court. It cannot be exercised to nullify the benefits derived by a large number of litigants based on judicial orders validly passed in their favour who are not parties to the proceedings before this Court; (ii) Article 142 does not empower this Court to ignore the substantive rights of the litigants; (iii) While exercising the jurisdiction under Article 142 of the Constitution of India, this Court can always issue procedural directions to the Courts for streamlining procedural aspects and ironing out the creases in the procedural laws to ensure expeditious and timely disposal of cases. However, while doing so, this Court cannot affect the substantive rights of those litigants who are not parties to the case before it. The right to be heard before an adverse order is passed is not a matter of procedure but a substantive right; and (iv) The power of this Court under Article 142 cannot be exercised to defeat the principles of natural justice, which are an integral part of our jurisprudence. c. Constitutional Courts, in the ordinary course, should refrain from fixing a time-bound schedule for the disposal of cases pending before any other Courts. Constitutional Courts may issue directions for the time-bound disposal of cases only in exceptional circumstances. The issue of prioritising the disposal of cases should be best left to the decision of the concerned Courts where the cases are pending; and

d. While dealing with the prayers for the grant of interim relief, the High Courts should take into consideration the guidelines incorporated in paragraphs 34 and 35 above.

38. We clarify that in the cases in which trials have been concluded as a result of the automatic vacation of stay based only on the decision in the case of Asian Resurfacing¹, the orders of automatic vacation of stay shall remain valid.”

5. This Court finds that the order dated 30.01.2024 passed by the learned Sub-Divisional Judicial Magistrate, Danapur in Complaint Case No. 117 (C)/2016 and order dated 21.04.2025 passed by the learned Additional Sessions Judge- V,



Danapur in Cr. Revision No.188/2024 in light of law laid down by the Apex Court in Case of **High Court Bar Association (Supra)** is required to be interfered by this Court and, accordingly, the same is set aside and quashed.

6. At this stage, learned counsel appearing on behalf of the respective parties submitted that *vide* order dated 29.07.2025 passed in Cr. Misc. No.40780 of 2018 and other analogous matter, the matters have been referred for mediation and the time granted by this Court for mediation has elapsed and they will file appropriate application for extending the time, so that the parties can settle their dispute amicably.

7. In view of above, no further order is required to be passed on merits.

8. The present applications stand consigned .

(Purnendu Singh, J)

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