

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.698 of 2025

In

CRIMINAL REVISION No.238 of 2023

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The High Court of Judicature at Patna through the Registrar General, Patna High Court.

... .. Appellant/s

Versus

1. Sundeshwar Kumar Das, Son of Ram Prasad Das, Resident of village - Nayatola, P.S. - Goriyari, District – Darbhanga. At present - Sub Inspector of Police, P.S. - Kargahar, District - Rohtas.
2. The State of Bihar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Piyush Lall, Advocate

For the State : Mr. Vikas Kumar, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 14-07-2025

Re. I.A. No. 2 of 2025 in L.P.A. No. 698 of

2025 :

Leave granted.

2. I.A. No. 2 of 2025 stands allowed.



Re. L.P.A. No. 698 of 2025 :

3. Heard Mr. Piyush Lall, the learned Advocate for the appellant/the High Court of Judicature at Patna and Mr. Vikas Kumar, the learned Advocate for the State.

4. While dealing with a criminal revision (*Cr. Revision No. 238 of 2023*), a learned Single Judge of this Court *vide* his order dated 26.06.2025 observed as follows at page 6 :

“Failure on the part of the investigating officer to comply with the provision of section 41A of the CrPC might be a ground for releasing the accused on bail with appropriate direction to meet the I.O. for interrogation, but without passing any order, an accused when produced before the court of law cannot be held to leave the Court in the manner in which it was done. I am constrained to note that the learned Additional District Judge 17th, Rohtas at Sasaram, is not aware about the Chapter XI and Chapter XXXIII of the Code of Criminal Procedure. It is high time that the concerned officer be directed to take training at the Bihar Judicial Academy with regard to the provisions of investigation by police,



Magistrates/Special Judges' power during investigation, and provisions relating to bail. The High Court Administration is requested to direct the concerned judicial officer to take training on the above subjects at the Bihar Judicial Academy. The copy of the order be sent to the Registrar General, The High Court of Judicature at Patna, for information and compliance. In the meantime, criminal powers be withdrawn from the concerned judicial officer.

5. Hence this appeal.

6. Mr. Piyush Lall, the learned Advocate for the High Court has submitted that this appeal is maintainable for the reason that the learned Single Judge ought not to have strayed in the administrative side while dealing with his revisional jurisdiction as such powers are precluded/not permitted under the statutory code and, therefore, any direction, as has been quoted above, amounts to an assumption of a constitutional jurisdiction under Article 226 of the Constitution of India.

7. We are wholly satisfied about the maintainability of this appeal as the offending directions



are in the nature of *mandamus* so far as it relates to sending the Judge concerned for training at Bihar Judicial Academy; and secondly for the learned Single Judge having directed that in the meanwhile, the criminal powers of the Judicial Officer concerned be withdrawn. Simultaneously, the Registrar General of the Patna High Court has been directed to comply with the order.

8. This is beyond the jurisdiction of a learned Judge dealing with criminal revision.

9. This Court had only recently noted in L.P.A. No. 263 of 2025 (*Balendra Shukla Vs. The State of Bihar and Ors.*) dated 08.07.2025 as follows :

“32. Way back in the year 1964, in the case of **Dr. Raghubir Sharan vs. The State of Bihar, AIR (1964) SC 1**, an issue arose as to whether the inherent power of an Appellate Court to expunge remarks made therein could be invoked ordinarily as such expunction might derogate from the finality of the judgment. In that case, a judgment could be emasculated of its force.

33. No doubt, the issue there



concerned adverse remarks against a Judicial Officer, but then the principles decided in that case would apply in all cases where adverse remarks are complained of.

34. A Judge exercising powers under Article 226 of the Constitution of India must be free to express his mind in the exposition of the case before him. Such expressions of a Judge in a case would depend on various factors, eg., his inherent reaction to the facts of the case or his, may be, felicity of expression.

35. Judicial function, we reckon, cannot be discharged effectively, if a Judge were to conform to any particular expression which has to have the approval of the higher/Appellate Court, but in the event of a complaint against any unmerited and undeserved comment, the same is required to be addressed by the Appellate Court. In that case, the Appellate Court may consider expunction of the remarks but not without citing that the observations made are not justified or are wholly wrong or improper, factually or otherwise. Impertinent, en-passant remarks, which in a way castigates or stigmatizes, must be eschewed as part of self-imposed duty of a Judge.

36. And, whenever such power of the



Appellate Court is invoked under the circumstances, the Appellate Court must be fully satisfied that the remarks are irrelevant and unjustified. [Also refer to the State Of Uttar Pradesh vs Mohammad Naim, AIR 1964 SC 703; Niranjana Patnaik vs Sashibhusan Kar & Anr. 1986 (2) SCC 569; in the matter of 'K' A Judicial Officer vs in the matter of 'K' A Judicial Officer, 2001 (3) SCC 54 and Om Prakash Chautala vs Kanwar Bhan & Ors; 2014 (5) SCC 417]”.

10. Without entering into the facts of the case, which led the learned Single Judge to assume that the Judge concerned requires training, we observe that such an order could not have been passed without letting the Judicial Officer concerned put on record his version.

11. That apart, we find it to be strange that such directions have been issued in a revisional jurisdiction. If at all, the learned Single Judge was not happy with the understanding of the Judge concerned, this could have been dealt with only in the administrative side.



12. We believe that the jurisdiction to take any action in that regard lies with the Chief Justice in his administrative capacity.

13. We have no doubt that while issuing such directions, the learned Single Judge has acted beyond the scope of revisional jurisdiction and appears to have passed orders as if he were exercising the jurisdiction under Article 226 of the Constitution of India.

14. In this circumstance, we are reminded of a pithy observation of the Supreme Court in ***Om Prakash Chautala Vs. Kanwar Bhan and Ors. : (2014) 5 SCC 417***, wherein taking reference of the judgments in the past, it has been held that such findings are worth avoiding in the judgments and while penning down the same, there should be a control over the language. A Judge is not to be guided by any kind of notion. The decision-making process expects a Judge or an adjudicator to apply restraint, ostracise perceptual subjectivity and make one's emotions subservient to



one's reasoning and think dispassionately.

15. Since we have found such observations in the order against a Judicial Officer without affording him any opportunity of explaining his cause as also the direction to the Registrar General to be completely beyond the scope of the reach of revisional jurisdiction, we set aside such observations and direct for expunction of the relevant paragraph, *i.e.*, paragraph 5 at page 6 (which should otherwise have been paragraph 6 in the order referred to above) and allow this appeal to the extent indicated above.

16. We clarify that such observations against the Judicial Officer concerned shall not ever percolate in his ACR or would be used for any purpose in any proceeding whatsoever.

17. We further clarify that we have not questioned the correctness of the decision rendered by the learned Single Judge in the revisional jurisdiction, but have only expressed our dissatisfaction over the en-



passant, unnecessary and adverse remarks against a Judicial Officer without affording him any opportunity of putting his version on record.

18. Mr. Piyush Lall has further pointed out that there is complete non-application of mind by the learned Single Judge because the order which was impugned before him in the revisional jurisdiction was not even passed by the Officer against whom the comments have been passed.

19. Interlocutory application(s), if any, also stands disposed off.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Praveen-II/-

AFR/NAFR	NAFR
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