

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.699 of 2025

In

CRIMINAL REVISION No.71 of 2025

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

... .. Appellant/s

Versus

1. Rafiqul Islam, Son of Abdul Hakim, Resident of Mohiuddinpur, Patharbasti, P.S. and District- Kishanganj, Pin- 855107, at Present Ward No.- 13, Ghoramora, Chakla, Kishanganj, District- Kishanganj, Pin - 855107.
2. Ful Begum @ Phulwaa, Wife of Rafiqul Islam, Resident of Mohiuddinpur, Patharbasti, P.S. and District- Kishanganj, Pin Code- 855107, at Present Ward No.-13, Ghoramora, Chakla, Kishanganj, District - Kishanganj, Pin - 855107.
3. Dinesh Ram, Son of Shri Parmeshwar Ram, Resident of Motibagh, Ward No.- 07, P.S. and District-Kishanganj, Pin Code- 855107.
4. The State of Bihar.

... .. Respondent/s

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Appearance :

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

For the Respondent/s : Mr. Vikas Kumar, AC to AG

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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. 699 of

2025 :

Leave granted.

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



Re. L.P.A. No. 699 of 2025 :

3. We have 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. This is an appeal by the High Court against the observations and directions of a learned Single Judge *vide* his order dated 24.06.2025 passed in Cr. Revision No. 71 of 2025, holding that the learned Special Judge, SC/ST Act, Kishanganj does not know the basic tenets of criminal law and, therefore, he does not have any right to discharge his duties as an Additional Sessions Judge, Kishanganj. The learned Single Judge has also observed that he is of the view that the Sessions power of the concerned Officer be taken away forthwith. The further direction in the order is that the Registrar General should pass necessary orders immediately on the basis of such observations made by the learned Single Judge and the concerned Judge be placed only in the civil side to dispose



off civil cases and appeals.

5. To clarify further, the learned Single Judge has held that the Officer should be kept under watch of the Patna High Court in its administrative side about his judicial work for the next six months.

6. A harsh but an absolutely unmerited and undeserved comment on a Judicial Officer.

7. Since the learned Single Judge has chosen to direct the Registrar General to strip the Judicial Officer concerned of his criminal judicial powers, hence an appeal has been filed taking into consideration that such directions assume the trappings of an order passed under Article 226 of the Constitution of India and, therefore, is appealable.

8. We wholly agree with the submission advanced by Mr. Piyush Lall, the learned Advocate for the appellant/High Court.

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; Niranjan 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. In the case at hand, some of the accused persons were granted bail in Kishanganj SC/ST P.S. Case No. 05 of 2019 registered for the offence punishable under Sections 420/406/409/341/323/504/506/34 of



the IPC; Section 138 of the N.I. Act, 1881 and Section 3(1)(e)(R)(s) of the SC/ST (Prevention of Atrocities) Act, 1989 on certain conditions.

11. The accused persons/the petitioners before the learned Single Judge were directed to deposit the amount in question within a stipulated time. An amount of Rs. 90,000/- was deposited by the accused persons/the petitioners *vide* a cheque, which was never honoured.

12. As such, the bail order was cancelled; against which, a revision was filed by the accused persons before the learned Single Judge.

13. The learned Single Judge dismissed the revision petition holding that any order passed by the Special Judge under the SC/ST Act was appealable under Section 14(A) of the SC/ST (Prevention of Atrocities) Act, 1989 and thus no revision was maintainable.

14. So far so good.

15. However, for this, an Officer was



castigated who was not the author of such an order of cancellation of bail of the accused persons. Without verifying these facts, caustic observations were made by the learned Single Judge against a Judicial Officer by his name and designation.

16. We find this to be absolutely unmerited, undeserved and not worth being retained in the order.

17. That apart, we find that this power is to be exercised in the administrative capacity by the Chief Justice and not a Judge acting in the revisional jurisdiction.

18. The Supreme Court in ***Om Prakash Chautala Vs. Kanwar Bhan and Ors. : (2014) 5 SCC 417***, after taking reference of the judgments delivered in the past, has 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.

19. For the afore-noted reasons, we allow this appeal to the extent of expunging all adverse remarks against the Judicial Officer, who did not have any opportunity to place his case before the learned Court as well as the direction to the Registrar General for stripping the Judge of his judicial powers.

20. We further 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.

21. It is made clear that we have not questioned the correctness of the decision rendered by the learned Single Judge in dismissing the revision petition on technical grounds, but have only expressed our dissatisfaction over the en-passant, unnecessary and adverse remarks against a Judicial Officer without



affording him any opportunity.

22. The appeal stands allowed to the extent indicated above.

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

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Sauravkrsinha/
Praveen-II-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.07.2025
Transmission Date	NA

