

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1395 of 2024

Arising Out of PS. Case No.-445 Year-2008 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

=====

Amit Kumar @ Amit Chaudhary Son Of Ram Preet Chaudhary Resident Of
Village - Masudanpur, P.O.- Masudanpur, P .S. Balia, District- Begusarai.

... .. Petitioner

Versus

1. The State of Bihar
2. Ravina Devi Wife Of Pawan Chaudhary Resident Of Village - Masudanpur,
P.O.- Masudanpur, P .S. Balia, District- Begusarai.

... .. Opposite Parties

=====

With
Criminal Miscellaneous No. 55946 Of 2023

Arising Out Of Ps. Case No.-445 Year-2008 Thana- Begusarai Complaint Case District-
Begusarai

- =====
1. Ram Preet Chaudhary S/O Late Jai Mangal Chaudhary R/O Village-
Masudanpur, P.O. Masudanpur, Ps. Balia, Dist. Begusarai
 2. Pappu Chaudhary @ Rajesh Kumar Chaudhary S/O Ram Preet Chaudhary
R/O Village- Masudanpur, P.O. Masudanpur, Ps. Balia, Dist. Begusarai

... .. Petitioners

Versus

1. The State of Bihar
2. Ravina Devi W/O Pawan Chaudhary R/O Village- Masudanpur, P.O.
Masudanpur, Ps. Balia, Dist. Begusarai

... .. Opposite Parties

=====

Appearance :

(In CRIMINAL MISCELLANEOUS No. 1395 of 2024)

For the Petitioner/s : Mr.Rajesh Ranjan, Advocate
Mr.Mohammad Farooq, Advocate

For the Opposite Party/s : Mr.Navin Kumar Pandey, APP

(In CRIMINAL MISCELLANEOUS No. 55946 of 2023)

For the Petitioner/s : Mr.Rajesh Ranjan, Advocate

For the Opposite Party/s : Mr.Navin Kumar Pandey, APP

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 30-01-2025

Heard learned counsel for the parties.

2. The present quashing petition has been filed to



quash to order dated 07.09.2009 passed by learned Chief Judicial Magistrate, Begusarai in connection with Complaint Case No. 445C/2008, whereby and whereunder learned Magistrate has taken cognizance of the offences under Sections 323, 342 and 365 of the Indian Penal Code and issued process against the accused persons including this petitioner.

3. In terms of the order dated 31.08.2023 (passed in Cr. Misc. No. 55946 of 2023), this Court directed the Superintendent of Police, Begusarai to report as to whether the husband of the complainant was in police custody on 08.03.2008 in connection with Baliya P.S. Case No. 42 of 2008 or not.

4. In furtherance of aforesaid direction of this Court, Ms. Nisheet Priya, Deputy Superintendent of Police (Headquarter), Begusarai has furnished a counter affidavit dated 14.12.2023 before this Court, where it is clearly averred in paragraph '9' as ***"That in the aforesaid background, it is apparent that on 8th March 2008, the husband of the complainant, namely, Pawan***



Choudhary was in police custody.”

5. At this stage, it would be apposite to reproduce **para 102** of the judgment of Hon’ble Supreme Court as available through **State of Haryana v. Bhajan Lal** reported in **1992 Supp (1) SCC 335**, which reads as under:

“**102.** In the 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 reproduced 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 it 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 uncontroverted allegations made in the



FIR or complaint and the 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 allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(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 or 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 mala fide 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 grudge.

6. Considering the counter affidavit, as aforesaid, the present case appears impossible on its face and suggest nothing but a false litigation which appears covered under guideline No. 1 & 7 of **Bhajan Lal's** case (supra).

7. Accordingly, impugned order dated 07.09.2009



as passed by learned Judicial Magistrate - 1st Class,
Begusarai in connection with Complaint Case No. 445C/2008
qua petitioner(s) stands quashed/set-aside.

8. This application stands allowed.

9. Let a copy of this order be sent to the learned
trial court/concerned court forthwith.

(Chandra Shekhar Jha, J)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2025
Transmission Date	31.01.2025

