

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68904 of 2023

Arising Out of PS. Case No.-390 Year-2022 Thana- COMPLAINT CASE District- Sheohar

Adil @ Md. Adil Son Of Md. Jauwad Alam Village- Nayagawn East, Ps-
Shyamour Bhathan, Dist- Sheohar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Nasim Son Of Md. Shakil Village- Shyampur, Ps- Shyamour Bhathan,
Dist- Sheohar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Hans Lal Kumar, Adv.
For the Opposite Party/s : Mr. Ajay Kumar No. 2, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 21-03-2025

Heard learned counsel appearing for the petitioner
and learned APP for the State.

2. The present application has been filed by the petitioner for quashing of the order dated 24.03.2023 passed by learned Judicial Magistrate 1st Class, Sheohar in connection with Complaint Case No. 390 of 2022, whereby the learned Judicial Magistrate 1st Class, Sheohar has taken cognizance for the offences punishable under Sections 323, 504 and 379/34 of the Indian Penal Code.

3. It is submitted by the learned counsel for the petitioner that petitioner is the brother-in-law of O.P. No.



2/complainant and as the sister of petitioner lodged a complaint case against O.P. No. 2, in retaliation the present case was lodged by O.P. No. 2 against petitioner. It is submitted that now matter appears compromised with sister of petitioner who is wife of O.P. No. 2 and both are residing together and as such no dispute is existing for the present. It is submitted that in the background of aforesaid fact, continuing of present proceedings before the court of law would only amount to abuse in process of law and therefore same is fit to be quashed.

4. Mr. Dr. Alok kr. Alok learned counsel appeared on behalf of O.P. No. 2 and approved the factum of compromise between Mr. Nasim and his wife, who is none but the sister of the petitioner. It is submitted that now the differences is settled and wife of petitioner is residing happily with O.P. No. 2 and he has no objection if proceeding before trial court is quashed.

5. Taking note of submissions as advanced, it appears that the present prosecution was initiated by O.P. No. 2 in retaliation of matrimonial cases initiated by the sister of



the petitioner to settle his private grudge. It is submitted that it is a classical example of malicious prosecutions out of ulterior and oblique motive and moreover, matter appears compromised.

6. It would be apposite to reproduce para-102 of the legal report of ***State of Haryana and Ors. Vs Bhajan Lal [1992 Suppl. (1) SCC 335]***, which is 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”.

7. Taking note of statement of learned counsel

appearing for the parties which made at bar as matter appears compromised between the parties and moreover, the



present criminal complaint was lodged in retaliations due to certain litigations initiated by the sister of petitioner against O.P. No. 2/ her husband, it appears to this Court that the present complaint case duly cover under the guidelines no. 7 of **Bhajan Lal case (supra)** and therefore same is fit to be quashed/set aside *qua* petitioner.

8. Accordingly, present quashing petition stands allowed.

9. Impugned order of cognizance dated 24.03.2023 including any further proceedings *qua* petitioner stands quashed/set aside.

10. Let a copy of this judgment be sent to the learned trial court forthwith.

(Chandra Shekhar Jha, J)

Sudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.03.2025.
Transmission Date	22.03.2025.

