

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.63236 of 2025**

Arising Out of PS. Case No.-82 Year-2020 Thana- SACHIVALAYA District- Patna

Lalan Kumar @ Lalan Kumar Yadav S/o Late Kamleshwari Prasad Resident  
of Mohalla - Hira Lal Lane, Chhajju Bagh, PS- Kotwali, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Chandan Kumar, Advocate

For the Opposite Party/s : Mr.Ram Priya Sharan Singh, APP

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**  
**ORAL ORDER**

2      02-09-2025                      At the outset, learned counsel appearing on behalf of  
  
the petitioner submitted that the defect(s), as pointed out by the  
  
Stamp Reporter, is removed.

2. Heard Mr. Chandan Kumar, learned counsel  
appearing on behalf of the petitioner and Mr. Ram Priya Sharan  
Singh, learned APP for the State.

3. The present application has been filed for quashing  
of the FIR dated 27.07.2020 for P.S. Case No.82/2020 registered  
under Sections 188, 269 and 270 of Indian Penal Code, Section  
3 of Epidemic Disease Act and Section 51 of Disaster  
Management Act.

4. As per the allegation made in the FIR, the petitioner  
along with other co-accused were holding political  
demonstration against the policies of the Government in front of



restricted area of Raj Bhawan.

5. Learned counsel appearing on behalf of the petitioner submitted that the allegation is general and omnibus in nature, so far as the petitioner is concerned, allegedly he is also one of the alleged protesters. Learned counsel further submitted that from the face of the FIR, no case is made out against the petitioner. The petitioner had exercised his democratic rights through protest, without incitement and the same cannot attract criminal prosecution against him. Learned counsel has relied upon a judgment of the Apex Court passed in the case of ***State of Telangana Vs. Mallu Bhatti Vikramarka & Ors.*** reported in ***2025 SCC Online SC 574*** and in the case of ***Manchu Mohan Babu Versus State of Andhra Pradesh & Another (Criminal Appeal No.3298 of 2025)***. On these grounds, learned counsel submitted that the entire criminal proceeding, if allowed to continue, will be abuse of process of law.

6. Learned APP appearing on behalf of the State submitted that in spite of lockdown and social distancing was in force, the protesters illegally gathered in the restricted area in front of Raj Bhawan during the Covid- 19 pandemic, causing possibility of spreading of Covid- 19 infections and as such,



rightly FIR has been lodged against the protesters for the said act under Sections 188, 269 and 270 of Indian Penal Code, Section 3 of Epidemic Disease Act and Section 51 of Disaster Management Act. He further submitted that the final report in this case was not filed so far.

7. Heard the parties.

8. The Hon'ble Supreme Court while dealing with the right to freedom of speech and expression and to assemble peacefully, in case of **Manchu Mohan Babu (supra)**, has observed in paragraph no.18, as follows:-

*“18. On a combined reading of the FIR and the charge-sheet, we fail to understand as to how the allegations against the appellants herein could be brought within the scope and ambit of the aforesaid provisions. Taking the allegations in the FIR and the charge-sheet as they stand, the crucial ingredients of the offences under Sections 290, 341, 171F read with 34 IPC and Section 34 of the Police Act, 1861 are entirely absent. A reading of the FIR and the charge-sheet neither discloses any act committed or illegal commission that caused common injury, danger, annoyance to the public or any section of the public or interference with their public rights, nor do they disclose any voluntary obstruction to a person that prevents them from proceeding in any direction that they have a right to proceed in. Further they do not disclose any material to suggest that there was any undue influence at elections, impersonation at elections or any act committed with the intention to interfere with the free exercise of electoral rights. Further they do not suggest that any act was committed on a road or in an open place within the limits of a town that caused inconvenience, annoyance or*



*posed a risk of danger or inquiry or damage to the public, and do not disclose any of the eight specified actions under Section 34 of the Police Act, 1861. Therefore, even if the case of the respondent-State is accepted at its face value, it cannot be concluded that the appellants, while conducting the rally and dharna, engaged in any form of obstruction of the road in a manner that led to the offences alleged. The appellants were exercising their right to freedom of speech and expression and to assemble peacefully. Therefore, no purpose will be served by continuing the prosecution."*

9. The allegation against the petitioner as per the FIR is that the accused persons had unlawfully assembled and raised slogans at the time of spread of pandemic Covid-19.

10. To analyze, as to whether, the offence as alleged in the FIR is made out, I find it proper to deal with Sections 188 of IPC which defines disobedience to order duly promulgated by public servant to spread infection as under:-

*"188. Disobedience to order duly promulgated by Public Servant:*

*Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both;*

*and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."*



11. From perusal of the aforesaid provision, it is evident that the police has no right to file a case under Section 188 of IPC and to investigate the same without getting proper permission from the concerned Jurisdictional Magistrate. Here, there is no material to show that before registering the case, permission of the concerned jurisdictional Magistrate has been obtained. In such circumstances, the respondent has no right to register the case and to investigate the matter.

12. Further, with regard to the case registered under Section 270 of IPC, though the case was registered on 27.07.2020, there is no material produced so far that the petitioner had knowingly attempted to spread infection of any disease dangerous to life. And it is also not the case of the respondent that at the time of the incident, the petitioner was affected by Covid-19, so that gathering of accused in this case resulted in spread of COVID – 19.

13. In view of the discussions made hereinabove, this Court is of the view that, proceeding further in this case would be an abuse of process of Law. Also, this Court finds that the present case was registered in the year of 2020 and till now, final report is not filed in this case. Even if final report is filed, there is no possibility of taking cognizance of the case as the



offences are barred by limitation under Section 468 Cr.P.C  
Therefore, this Court quashes the FIR dated 27.07.2020 in  
connection with P.S. Case No.82/2020.

14. Accordingly, the present petition stands allowed.

**(Purnendu Singh, J)**

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