

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72670 of 2019

Arising Out of PS. Case No.-154 Year-2015 Thana- RAMPUR District- Gaya

SHIBLI @ SHIVALI Son of Sarwar Alam Resident of Village - Dewan
Bigha, P.S.- Dev, District – Aurangabad. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surendar Kr. Singh, Advocate

Mr.Sudhir Kumar Sinha, Advocate

For the Opposite Party/s : Mr.Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 08-12-2025

Heard Mr. Surendar Kr. Singh along with Mr. Sudhir

Kumar Sinha, learned counsel appearing on behalf of the
petitioner and Mr. Jharkhandi Upadhyay, learned APP for the
State.

2.The petitioner has preferred the application under
Section 482 Cr.P.C. / 528 BNSS for quashing of the order dated
29.08.2018 passed in connection with Rampur P.S. Case
No.154/15, by the learned Chief Judicial Magistrate, Gaya by
which he has taken cognizance of the offences under Sections
409 of the Indian Penal Code against the petitioner.

3. Brief facts of the case are that the informant, who
happened to be the Deputy Managing Director, Bihar State
Building Construction Limited, Scheme Implementation Unit,
Gaya, has lodged an FIR being Rampur P.S. Case No.154/15
against the petitioner, alleging therein that the petitioner was



posted in his office and without any information, the petitioner remained absent from the office from 16.05.2015, leading to his termination from service from 03.06.2015. The informant has further alleged that petitioner has returned 14 measurement books through his brother to the office but still 37 measurement books are required to be submitted by the petitioner.

4. Learned counsel appearing on behalf of the petitioner submitted that from very perusal of the FIR, it would appear that the Deputy Managing Director, Bihar State Construction Limited Scheme, Implementation Unit, Gaya admitting that the petitioner was dismissed from service or his contract was terminated on the alleged misconduct, no case is made out against the petitioner. Learned counsel further submitted that in course of investigation also, the Investigating Officer has collected evidence which shows that all the important public documents out of 37, like measurement book, work satisfaction order have been found to be in the office of the Deputy Managing Director and it has also been recorded, based on the information in respect of seven documents that the same will be also traced out from the office of the Managing Director concerned. Learned counsel further submitted that such information has been collected by the investigating officer and



has been recorded in paragraphs no.7, 8 and 14 on the same basis and in absence of any illegality or criminal act committed by the petitioner, which don't satisfy the ingredients of Section 409 of IPC, and further proceeding against the petitioner in a criminal case would amount to an abuse of the process of law. In this regard, learned counsel has relied upon the judgment of ***State Of Haryana And Ors vs Ch. Bhajan Lal And Ors*** reported in ***(1992) Supp (1) SCC 335***. On these grounds, learned counsel submitted that the entire proceeding and order taking cognizance dated 29.08.2018 passed in connection with Rampur P.S. Case No.154/15 are fit to be set aside and quashed.

5. Mr. Jharkhandi Upadhyay, learned APP appearing on behalf of the State submitted that after investigation based on the material collected, the Magistrate has not committed any error in taking cognizance under Section 409 of Indian Penal Code, admitting the fact that seven documents are still to be produced before the government officials which form vital government records and the petitioner having been made accused for the said allegation, it cannot be said that no case is made out against the petitioner on the bare perusal of the FIR or in course of investigation, there was no sufficient evidence collected by the investigating officer. Learned counsel further proceeded to



convince this Court that even minuscule evidence collected against the petitioner is enough to proceed against him and, therefore, the present case is not a rarest of the rarest case, and the Court should circumvent from exercising its jurisdiction under Section 482 Cr.P.C./528 BNSS.

6. Having considered the rival submissions made on behalf of the parties, as well as, having perused the FIR and the material which has surfaced in course of the inquiry, it appears that petitioner has claimed that he was a contractual employee posted as Junior Engineer and he was dismissed on 03.06.2015. Just after dismissal of the petitioner, FIR has been lodged on 19.06.2015. Allegation being that the petitioner has allegedly not returned 37 measurement books and in course of investigation, the investigating officer has recorded that 30 measurement books and other documents have been found to be in the office of the Deputy Managing Director, Bihar State Building Construction Limited and in respect of seven documents, he has every hope that the same will be also in the office of the Bihar State Building Construction Limited. The Investigating officer submitted the chargesheet under Section 409 of IPC on 30.09.2016 and the learned Magistrate appears to have taken the cognizance without giving his consideration to the material



which has surfaced in course of inquiry, on which basis charge-sheet was submitted on 30.09.2016. I find that there is no material or evidence on record against the petitioner collected in due course of investigation. From the perusal of the FIR, no case is made out at the same time, the record also reveals that material which has been collected goes to show that the petitioner has not only been subjected to face disciplinary action but, simultaneously against him a well motivated FIR has been lodged and if such FIR based on the allegation made therein is allowed to proceed, the same will be abuse of process of law.

7. Accordingly, in view of the discussions made hereinabove and the law laid down by the Apex Court in case of *Bhajan Lal (Supra)* the order taking cognizance dated 29.08.2018 passed by the learned Chief Judicial Magistrate, Gaya and the entire proceeding in connection with Rampur P.S. Case No.154/15 are hereby quashed and set aside.

8. The application filed under Section 482 Cr.P.C. is disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.12.2025
Transmission Date	10.12.2025

