

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 5081 of 2019

Arising Out of PS. Case No.-285 Year-2017 Thana- PANCHRUKHI District- Siwan

Jitendra Kumar Sah, Son of Hansnath Sah, Resident of Village- Ratanpura
... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Ramadhar Shekhar, Adv.

For the Opposite Party/s : Mr. Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 27-07-2026

1. Heard the parties.

2. This is an application for quashing of the order dated 06.12.2018 passed by the learned Additional Sessions Judge-IV, Siwan in S.Tr.No. 575/2018, arising out of Pachrukhi (Sarai) P.S. Case No. 285/17 dated 11.12.17 registered under Sections 413, 414, 467, 468, 471, 420, 120(B) of I.P.C., by which the petition filed on behalf of the petitioner u/s 227 Cr.P.C. for discharge has been rejected and directed to frame charge against the accused persons.

3. The prosecution case, in brief, is that S.I. Rakesh Kumar Sharma, S.H.O. of Sarai O.P., Siwan got his statement stating therein that on 11.12.2017 at about 5.30, he received information that 8-10 persons are gathered with two pickup van and Bolero vehicle, and talking about the



purchase of the vehicles. The informant informed to the senior police officials and entered Sanha in this regard and on direction of the senior police officers, he along with other police party reached at the aforesaid place and found two pick up vans and two Bolero vehicles were stating there and 8-10 persons are talking to each other and after seeing the police party, they trying to flee away, out of them, 7 persons were apprehended and three persons were succeeded in fled away, apprehended persons disclosed their names as Ram Niwas Dubey, Mohan Kumar Sah, Manish Kumar, Jitendra Kumar, Ranjit Kumar, Himanshu Kumar, Ajay Prasad. They further disclosed the name of the persons, who fled away as Prem Kumar, Birbal Singh, Subhash Kumar. Thereafter in presence of two witnesses search was made and from possession of them aforesaid vehicles along with mobile phones are said to recovered, from papers of vehicles, the recovered vehicles seems to be stolen property, accordingly seizure list was prepared. On the basis of aforesaid statement, a case was instituted against altogether 10 accused persons.



4. After investigation, police submitted charge-sheet vide charge-sheet no. 51 of 2018 dated 09.03.2018 against six accused persons namely, Ram Niwas Dubey, Mohan Kumar Sah, Manish Kumar, Ranjit Kumar, Himanshu Kumar and Ajay Prasad and also submitted charge-sheet against four accused persons including this petitioner keeping investigation open.

5. It is submitted by learned counsel appearing for the petitioner that considering the material available on record, despite the fact that investigation was open against petitioner. Learned trial court took cognizance and committed case to the court of Sessions for its trial and disposal, wherein the petitioner filed petition under Section 227 of Cr.PC saying that proceeding is completely baseless against him as no case is made out, but the same was rejected through impugned order dated 06.12.2018 without assigning any reason. It is further submitted that fact categorically suggest that during raid, this petitioner along with other co-accused persons were apprehended, with vehicle bearing Registration No. BR-02GA-4255 and also



one mobile phone of Samsung company. It is further submitted that upon verification, the documents related with vehicle and also its registration certificate was found genuine and same was in the name of this petitioner. It is further submitted that mobile phone which was seized from petitioner belongs to him which was released in his favour after verification of related documents by learned trial court. It is further submitted that the rejoinder-cum-2nd counter affidavit has filed by Superintendent of Police, Siwan dated 28.07.2023 categorically stated through its para 7 that the vehicle in issue was registered in the name of this petitioner, on the date of occurrence and during pendency, it was transferred to one Ranjeet Kumar. It is further pointed out that there is no allegation against the petitioner by any private persons and merely on the basis of suspicion and out of oblique motive, the present criminal case was lodged. Highlighting the issue, it is pointed out by learned counsel that other co-accused persons namely, Ram Niwas Dubey, Mohan Kumar Sah and Ranjit Kumar were acquitted by the learned trial court through its judgment dated 31.01.2022,



as no prosecution witnesses were turned up despite of giving several opportunities. It is further submitted that now nothing survives in this case, even prosecution lost his interest, which is apparent from the order dated 31.01.2022.

6. It is further argued that in view of all such aforesaid facts, it can be said safely that no case is made out against petitioner and therefore, the impugned order of rejection regarding discharge petition is fit to be quashed/set aside. In support of his submissions, the learned counsel relied upon the legal report of Hon'ble Supreme Court as available through ***State of Haryana and Others vs. Bhajan Lal and Others*** reported in ***1992 Supp (1) SCC 335***.

7. It would be apposite to reproduce the para 102 of Hon'ble Supreme Court in the case of ***Bhajan Lal Case (supra)***, 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 informant 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 nay 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 persons 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."

8. Considering the aforesaid submissions as on



date of lodging the FIR, the vehicle in issue was registered in the name of this petitioner and furthermore, the mobile phone was released in favour of this petitioner after due verification, accordingly, nothing incriminating appears against this petitioner as to proceed with any criminal case.

9. In view of aforesaid factual submissions and in terms of guiding notes as available through para 1 and 3 of **Bhajan Lal Case (supra)**, the impugned order dated 06.12.2018 as passed by Additional Sessions Judge-IV, Siwan is hereby quashed/set aside with all its consequential proceedings qua petitioner.

10. Accordingly, the present petition stands allowed.

11. Let the copy of judgment be communicated to the learned trial court forthwith, with TCR, if any.

(Chandra Shekhar Jha, J.)

Raushan/-

AFR/NAFR	NAFR
CAV DATE	N/A
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