

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.202 of 2026

Arising Out of PS. Case No.-444 Year-2022 Thana- SHERGHATI District- Gaya

1. Sashi Bhushan Narayan Son of Late Chedi Narayan Resident of Village- Padumchak Barachatti, Post and P.S.- Barachatti, District- Gaya, At present resident of Village- Badhi Tola, P.S.- Sherghati, District- Gaya
2. Tetri Devi Wife of Sashi Bhushan Narayan Resident of Village - Padumchak Barachatti, Post- Barachatti, District- Gaya, at present resident of Village- Badhi Tola, P.S.- Sherghati, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Senior Superintendent of Police Gaya.
3. The Sub Divisional Police Officer, Sherghati Gaya
4. The Station House Officer, Sherghati Police Station Gaya.
5. The Investigating Officer of Sherghati P.S. Case No. 444/2022 dated 03.06.2022 Sherghati Police Station, Gaya.
6. Premni Kumari Wife of Surendra Das Resident of Mohalla- Lagan Taakiya, P.S.- Sherghati, District- Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amit Kumar Singh, Advocate Mr. Sumit Kumar Singh
For the Respondent/s	:	Dr. Md. Raisul Haque, S.C.10

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 03-07-2026 Heard the learned counsel for the petitioners.

2. The present writ petition has been filed for setting aside the order taking cognizance dated 09.10.2023 passed by the learned Exclusive Special Judge, SC/ST (Prevention of Atrocities) Act, Gaya in connection with Sherghati P.S. Case No. 444 of 2022 whereby and whereunder the learned trial court has taken cognizance for offences under Sections 341, 323, 420,



406, 376, 354(B) and 511 of the Indian Penal Code and Section 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and directed for issuance of summons against the petitioners.

3. Since the petitioners have approached this Court against a judicial order taking cognizance, obviously the writ petition under Article 226 of the Constitution of India is not maintainable.

4. However, learned counsel for the petitioner submits that this Court can entertain the writ petition under Article 226 of the Constitution for quashing of the judicial orders and nomenclature does not matter whether it is filed under Article 226 or Article 227 or Section 528 BNSS. In support of his contention, he placed reliance on the decision in the case(s) of ***Ramawatar Vs. State of Madhya Pradesh, (2022) 13 SCC 635*** and ***Gulam Mustafa Vs. State of Karnataka & Anr., (2023) 18 SCC 265***.

5. The Hon'ble Supreme Court in ***Radhey Shyam v. Chhabi Nath, (2015) 5 SCC 423*** has held that judicial orders of the civil court are not amenable to writ jurisdiction under Article 226 of the Constitution. Thereafter relying upon the decision of ***Radhey Shyam (supra)***, the Hon'ble Supreme Court in the case



of ***Neeta Singh & Ors. Vs. The State of Uttar Pradesh & Ors,***

2024 SCC OnLine SC 5761 in paragraph-5 held as under:

“5. Although Radhey Shyam (supra) dealt with judicial orders passed by civil courts, there cannot be a different standard for judicial orders passed by criminal courts. If a judicial order passed by a civil court cannot be challenged in a writ petition under Article 226 of the Constitution, a fortiori, a judicial order passed by a criminal court cannot also be challenged in a writ petition under Article 226.”

6. In the case of ***Neeta Singh & Ors.*** (supra), the Hon’ble Supreme Court has further held that nomenclature does matter and held in Paragraph-15 as under:

“15. In view of the decision in Prakash Chand (supra), we hold that nomenclature of a petition read with the substance thereof does matter. Much depends on what the subject matter of the petition is and who is entrusted to hear and decide it. A Judge of a high court having been assigned petitions under Article 226 for hearing and decision by its Chief Justice cannot, if he (the Judge) finds that the petition filed under Article 226 should have ideally been filed under Article 227, treat the petition as one under Article 227 and proceed to hear and decide it, unless the Chief Justice has also assigned to such Judge petitions under Article 227 of the Constitution for hearing and decision. If not so assigned, the learned Judge may, in his discretion, direct the petition to be treated as one under Article 227 for being placed before the learned Judge having



assignment. This is mandatory and, therefore, one finds the caution sounded by this Court in the opening sentence of paragraph 26 of Pepsi Foods (supra) to be of extreme significance.”

7. Further, in the case of ***Pradnya Pranjal Kulkarni Vs. State of Maharashtra and Another, 2025 SCC OnLine SC 1948***, the Hon’ble Supreme Court held that the High Court was not correct in dismissing the petition as while passing the impugned order, the bench was having both the rosters of Article 226 of the Constitution of India and Section 482 CrPC/Section 528 BNSS.

8. Cumulative reading of these two decisions of the Hon’ble Supreme Court *i.e. Neeta Singh & Ors.* (supra) and ***Pradnya Pranjal Kulkarni*** (supra) makes it clear that unless a certain roster under Article 227 or Section 528 BNSS is assigned to the same Court which is hearing the writ petition under Article 226, the writ Court cannot entertain any writ against any judicial order. So far as reliance placed by the learned counsel for the petitioner upon the decisions of ***Ramawatar*** (supra) and ***Gulam Mustafa*** (supra) is concerned, both the matters deal with inherent powers of the High Court under Section 482 of CrPC and thus those decisions are in no way concerned with the powers of Court under Article 226 of the Constitution in



entertaining a writ against judicial orders. It goes without saying that judicial orders do not infringe upon rights of a person which would make such order amenable to the writ jurisdiction under Article 226 of the Constitution.

9. In the light of discussion made hereinbefore, I am of the opinion that the present writ petition has been filed by the petitioners under misconceived notion and could not be entertained by this Court under Article 226 of the Constitution. Hence, the present writ petition is dismissed as not maintainable.

(Arun Kumar Jha, J)

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