

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13252 of 2023**

Arising Out of PS. Case No.-74 Year-2015 Thana- KANKARBAG District- Patna

NEETU KUMARI @ NITU KUMARI W/O GOPAL THAKUR Resident of
Village- Ratanpur, P.S.- Kamtaul, District- Darbhanga.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kr. Choudhary, Sr. Adv. Mr.Arvind Kumar, Advocate
For the Opposite Party/s	:	Mr.Binod Kumar, APP

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

6 31-01-2026 Heard Mr. Ashok Kumar Choudhary, learned Senior
counsel appearing on behalf of petitioner, assisted by Mr.
Arvind Kumar and learned APP for the State.

2. No one appears on behalf of Opposite Party No. 2
despite valid service of notice.

3. The present application has been filed for quashing
of order dated 04.03.2020 passed by the learned Judicial
Magistrate-2nd Class, Patna in connection with Kankarbagh P.S.
Case No. 74 of 2015, whereby and whereunder the learned
Magistrate took cognizance under section 364A read with
section 34 of the Indian Penal Code against the petitioner and
others and further prayer is to set aside the order dated



28.9.2022 passed by the learned Additional Sessions Judge-XVI, Patna in Criminal Revision No. 87 of 2021 against order dated 04.03.2020.

4. The short facts, based upon written information of the informant Moni Devi is that while she was along with her brother in the clinic of Dr. R.N. Singh on 01.02.2025 at around 2:00 p.m., some persons came and forcefully took away her brother, namely Krishna Chaudhary, on a vehicle and such information was given to the police and F.I.R No. 74 of 2015 dated 01.02.2015 was registered under sections 363 and 365 of the Indian Penal Code (hereinafter referred to as 'IPC') against unknown persons.

5. After investigation, the police submitted charge sheet in the case against the accused persons, including the present petitioner, based upon which the learned Magistrate took cognizance against the present petitioner and other accused persons for the offence punishable under section 364A read with section 34 of the I.P.C. on 04.03.2020.

6. Mr. Ashok Chaudhary, learned senior counsel for the petitioner submits that it would be evident from a bare perusal of the F.I.R. itself that it was lodged against unknown persons and the name of this petitioner along with others has



transpired during course of investigation where the statement of the victim was recorded under Section 164 Cr.P.C. in which he has disclosed general and omnibus allegation against the accused persons. However, the said statement of the victim does not make any mention with regard to the involvement of the present petitioner in the aforesaid offence. It has been submitted that the petitioner has been made an accused in this case only by virtue of the fact that she happened to be the wife of accused Gopal Thakur and the mobile phone with which certain phone calls were made belonged to the present petitioner.

7. It has further been submitted that F.I.R. was lodged with malicious intention and this petitioner and others having been made accused is attended with *mala fide*, is quite evident from the fact that there was a dispute with regard to the monetary transaction between the petitioner's husband and the victim and he had agreed to pay an amount of Rs. 28 lakhs on 31.12.2015 and with regard to which, a *panchayati* took place and it is precisely on the next date i.e. on 31.12.2015, that the present F.I.R. was lodged with a view to harass the petitioner and her entire family members. He has further submitted that a money suit bearing Money Suit No.38 of 2015 was also filed by husband of the petitioner, Gopal Thakur, against the victim and



in the said proceedings also the victim deliberately did not appear and has taken recourse to filing the present false case against the petitioner and others. It has thus been argued that the present case is out and out false and malicious prosecution against the petitioner falling within the categories as enumerated in the case of *State of Haryana & Ors. Vs. Ch. Bhajan Lal & Ors.* reported in *AIR 1992 SC 604*.

8. The further submission made on behalf of learned senior counsel is to the effect that a bare perusal of the cognizance order would also indicate that it is a totally mechanical order passed by the Jurisdictional Magistrate inasmuch as it is not indicative of any judicial application of mind, but for the fact that since the charge-sheet has been submitted, cognizance has been taken against all the persons named in column 11 of the said charge-sheet. Additionally, it has also been argued that the other accused persons being Murari Thakur, Gopal Thakur and Nitesh Kumar, against whom there appears some general and omnibus allegations in the statement of the victim recorded under section 164 Cr.P.C, had also preferred an application for quashing the cognizance order and by well considered and reasoned order, the said application was allowed by a coordinate bench of this court by order dated



15.07.2025 in Cr. Misc. No. 17472 of 2023 and it has, thus, been submitted that the present case stands on a much better footing than co-accused persons.

9. I have perused the entire material available on record and after considering the submissions made by the learned Senior Counsel, this Court is of the view that not only the cognizance order passed by the Jurisdictional Magistrate is a non-speaking order reflecting the non-application of judicial mind, it is also a fact that the materials available on record do not point out the involvement of the present petitioner in any manner. This Court also takes into consideration the fact that the present prosecution can be termed to be a malicious prosecution in view of the background of money suit pending between the parties and the present FIR being filed at a time when *panchayati* was going on and as such the allegations made against the petitioner do not have any legs to stand.

10. Considering the fact that the present case is squarely covered under the categories of quashing as laid down in the case of **Ch. Bhajanlal** (*supra*) and also considering that case of other co-accused persons have already been quashed by a reasoned order passed by a coordinate bench of this Court and finding the case of this petitioner to be on a much better footing,



cognizance order dated 04.03.2020 passed by the learned Judicial Magistrate-2nd Class, Patna in connection with Kankarbagh P.S. Case No. 74 of 2015 as also the impugned order dated 28.9.2022 passed by the learned Additional Sessions Judge-XVI, Patna in Criminal Revision No. 87 of 2021 are hereby quashed.

10. Accordingly, the instant application stands allowed.

(Soni Shrivastava, J)

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