

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16018 of 2025

Arising Out of PS. Case No.-240 Year-2023 Thana- SARAN COMPLAINT CASE District-
Saran

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Md. Wakil Alam Ansari @ Mohd. Owkil Alam Ansari Son of Md. Halim
Ansdari @ Md. Halim Resident of Moghalpura Kath Ka Pul, P.O.- Jhauganj,
Patna City, P.S.- Khajekala, Distt.- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manorama Kumari Wife of Ranjit Kumar Rajak Resident of House No. 102-
C Mohalla Salempur, P.S.- Chapra Nagar, Distt.- Saran at Chapra

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Bhola Prasad, Advocate Mr. Amarnath Singh, Advocate Mr. Satya Prakash, Advocate
For the Opposite Party/s	:	Ms. Pushpa Sinha, APP
For the O.P. No. 2	:	Mr. Satish Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

4 10-02-2026 Heard the learned counsel for the parties.

2. The present application has been filed for quashing
the order dated 12.10.2023 passed by learned Judicial
Magistrate 1st Class Saran at Chapra in Complaint Case No.
240 of 2023, Enquiry No. 71 of 2023, CIS No. 240 of 2023,
whereby cognizance has been taken against him under
Section(s) 323, 379, 504 and 506 of the I.P.C.

3. The facts giving rise to the present application is to
the effect that the accused persons are the officials of the
Electricity department. The complainant has the electricity



connection in the name of her husband. The allegation is that the complainant wrote to the department for the increase in the electricity bill and wrote several applications relating to the correctness of the bill. It is further alleged that the officials asked for a bribe of Rs.50,000/- for correction of Bills. On 27.02.2022 at about 3:00 P.M, the accused persons entered the house and removed the meter and when the complainant protested against the accused person, she was abused and beaten, and the accused took two bundles of copper wire and also broke things of the house.

4. Having heard the learned counsel for the petitioner, learned APP for the State as well as the learned counsel for the O.P. No.2, it is evident that the petitioner was the official of the Electricity Department posted as Junior Engineer at the relevant time. It is also evident from the records that on account of electricity theft, an F.I.R was lodged against the informant of the present case. It has been submitted that the petitioner happens to be the informant of the said case in which the theft of electricity was registered and an amount of Rs. 3,17,936/- was found to be due with the accused/informant of the present case.

5. The contention of the learned counsel for the



petitioner that the present case is an apt example of malicious prosecution as it is evident that in retaliation to the said F.I.R. lodged against the informant of the present case for electricity theft, the present false and concocted case has been filed against the petitioner and others, however, the police has submitted final form against rest of the accused persons and without appreciating the facts, has gone on to take cognizance against the petitioner.

6. The further contention raised by the learned counsel for the petitioner that the learned Magistrate has failed to appreciate that the petitioner happens to be a government servant and the allegations levelled are during the course of performance of his official duty and therefore the provisions of Section 197 of the CrPC would have attracted in the present case and sanction was a must and despite such requirement, the learned Magistrate has gone on to take cognizance.

7. In view of the aforesaid submissions, the present case is squarely covered by the observations made by the Hon'ble Supreme Court in the case of ***State of Haryana v. Bhajan Lal***, 1992 Supp (1) SCC 335.

8. The Hon'ble Supreme Court has observed in paragraph no. 102 of the aforesaid judgment which reads as



under:

“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 have given 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 information 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 any 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 person 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.”

9. In view of the aforesaid, the present case falls under the category of malicious prosecution initiated to wreak vengeance against the petitioner.

10. Accordingly, the order dated 12.10.2023 passed by learned Judicial Magistrate 1st Class Saran at Chapra in Complaint Case No. 240 of 2023, Enquiry No. 71 of 2023, CIS No. 240 of 2023 is quashed.

11. The present application stands allowed.

(Sourendra Pandey, J)

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