

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19704 of 2025

Arising Out of PS. Case No.-147 Year-2015 Thana- CHAPRA TOWN District- Saran

Shakil Ahmad Ata S/o- Md. Ataullah Resident of village- Post and Police
Station- Nagra District- Saran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Amritesh S/o- Late Mahesh Prasad Srivastava R/o- Mauna Banganj Ps-
Chapra Town Dist- Saran

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gyan Prakash, Advocate

Ms. Parul Priya, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL JUDGMENT

Date : 05-01-2026

Heard learned counsel for the petitioner and learned
counsel appearing for the State.

2. The present application has been filed for
quashing of order dated 18.12.2024 in G.R. No. 2668 of 2015,
Reg. No. 3850 of 2015, arising out of Chapra Nagar P.S. Case
No. 147 of 2015 under Sections 341, 506 and 34 of the Indian
Penal Code passed by learned Chief Judicial Magistrate, Saran
by which the learned Court below has taken cognizance against
the petitioner for offences under Sections 504 and 506 of the
Indian Penal Code.

3. The prosecution case, in brief, is that on
26.05.2015, the petitioner allegedly abused and threatened the



informant over the telephone. It is further alleged that on 27.05.2015 at about 9:15 p.m., near Salempur Chowk, the informant was surrounded and assaulted by three to four persons, who also extended threats, thereby causing fear. On the basis of these allegations, Chapra Nagar P.S. Case No. 147 of 2015 under Sections 341, 506 and 34 of the Indian Penal Code was registered. The police after investigation has submitted final form on 30.09.2022. Thereafter, the learned Court below has taken cognizance against the petitioner on 18.12.2024 for offences under Sections 504 and 506 of the Indian Penal Code.

4. Learned counsel for the petitioner submits that the entire criminal proceeding stands vitiated on account of gross, unexplained, and inordinate delay in taking cognizance. It is contended that the alleged occurrences are of May 2015, and the offences alleged are punishable with imprisonment extending up to two years. In view of Section 468(2)(c) of the Code of Criminal Procedure, the limitation for taking cognizance of such offences is three years, which, under Section 469(1)(a) Cr.P.C., commences from the date of the offence.

5. Additionally, learned counsel for the petitioner has placed reliance on the judgment of the Hon'ble Supreme Court in *Srinivas Gopal v. Union Territory of Arunachal*



Pradesh (1988) 4 SCC 36, wherein the Court held that the taking of cognizance after an inordinate and unexplained delay amounted to an abuse of the process of law.

6. It is urged that cognizance in the present case has been taken after an inordinate delay of about nine years and six months, without any application seeking condonation of delay and without recording satisfaction as mandatorily required under Section 473 Cr.P.C. It is further submitted that the impugned order reflects complete non-application of judicial mind, and that permitting the criminal proceeding to continue would amount to an abuse of the process of the court.

7. Learned counsel for the State has supported the impugned order.

8. This Court has carefully considered the rival submissions and perused the materials on record.

9. At the outset, it is undisputed that the offences alleged under Sections 504 and 506 IPC are punishable with imprisonment extending up to two years. Consequently, in terms of Section 468(2)(c) Cr.P.C., the period of limitation prescribed for taking cognizance of such offences is three years. Further, as per Section 469(1)(a) Cr.P.C., the limitation period begins to run from the date of the offence.



10. In the present case, the alleged occurrences are of 26.05.2015 and 27.05.2015, whereas cognizance has been taken after a lapse of approximately nine years and six months i.e. on 18.12.2024. Such delay is not merely marginal or procedural, but extraordinary and *prima facie* fatal, unless adequately explained and judicially condoned in accordance with law.

11. A perusal of the impugned order reveals that the learned court below has taken cognizance in a mechanical and routine manner, without adverting to the statutory bar under Section 468 Cr.P.C. The order is conspicuously silent on the issue of limitation and does not disclose any awareness of the fact that cognizance was being taken long after the expiry of the prescribed period. More importantly, the order does not record any satisfaction or reasons, as mandatorily required under Section 473 Cr.P.C., to justify extension of the period of limitation.

12. It is equally significant that no application seeking condonation of delay or extension of limitation was ever filed by the prosecution. In the absence of such an application, and without recording any reasons demonstrating that the delay was either properly explained or that the interests



of justice demanded extension, the learned Magistrate lacked jurisdiction to take cognizance after the expiry of limitation.

13. The scheme of Chapter XXXVI of the Code of Criminal Procedure makes it abundantly clear that the bar of limitation under Section 468 Cr.P.C. is not discretionary, but mandatory. Section 473 Cr.P.C. carves out a narrow exception, permitting extension of limitation only upon a conscious judicial determination, supported by recorded reasons. The exercise of such discretion must reflect application of mind to the nature of the delay, the explanation offered, and the interests of justice.

14. In the absence of compliance with these statutory requirements, the court is expressly prohibited from taking cognizance. Any order passed in disregard of such mandate is rendered without jurisdiction and is liable to be set aside.

15. The Hon'ble Supreme Court, in *State of Haryana v. Bhajan Lal (1992 Supp (1) SCC 335)*, has authoritatively held that criminal proceedings are liable to be quashed where their continuation would amount to an abuse of the process of law, or where such proceedings are initiated or continued in contravention of express statutory provisions. One of the recognized categories laid down therein squarely covers



cases where continuation of proceedings results in manifest injustice due to clear legal infirmities.

16. Further, in *Srinivas Gopal v. Union Territory of Arunachal Pradesh (1988 Supp (1) SCR 477)*, the Hon'ble Supreme Court emphasized that the concept of limitation in criminal law is not a mere technicality, but a substantive safeguard flowing from the guarantee of fair procedure under Article 21 of the Constitution of India. The Court observed that inordinate and unexplained delay seriously prejudices the accused, as memories fade, evidence disappears, and the ability to effectively defend oneself is compromised.

17. In paragraphs 8 and 9 of the said judgment, the Supreme Court categorically held that when a statute prescribes a specific period of limitation for taking cognizance, courts are duty-bound to strictly adhere to it. Any extension must be preceded by recorded reasons reflecting judicial satisfaction. Failure to do so renders the continuation of criminal proceedings arbitrary, unjust, and unconstitutional.

18. Applying the aforesaid statutory provisions and settled legal principles to the facts of the present case, this Court is of the considered view that the impugned order taking cognizance is ex-facie illegal, without jurisdiction, and



unsustainable in law. The learned court below has failed to notice the mandatory bar under Section 468 Cr.P.C. and has not exercised the discretion under Section 473 Cr.P.C. in a judicious manner. The impugned order does not disclose any discussion, satisfaction, or reasoning justifying condonation of an extraordinary delay of more than nine years.

19. Permitting the criminal proceeding to continue in such circumstances would defeat the very object of limitation in criminal law, expose the petitioner to unwarranted harassment, and amount to a misuse of the criminal justice process.

20. Accordingly, the impugned order taking cognizance and the entire criminal proceeding arising therefrom are hereby quashed.

21. The present petition stands allowed.

(Rudra Prakash Mishra, J)

Rajorshi/-

AFR/NAFR	NAFR
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