

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19294 of 2019

Arising Out of PS. Case No.-2217 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

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Sushil Kumar Sinha S/O Late Laxmi Datta Qualiyar, Resident Of Patna
Collectoriate, Bar Association, P.S.-Gandhi Maidan, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Satyadev Chaudhary S/o Sri Shivdayal Chaudhary Resident of Mohalla-
Indrapuri, Road No.3A/71, P.S.-Patliputra, District-Patna
3. Vijay Bahadur Singh S/o Sri Lal Babu Singh Resident of Mohalla-Indrapuri,
Road No.3A/71, P.S.-Patliputra, District-Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Awadhesh Kumar
For the Opposite Party/s : Mr.Shailendra Kumar

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 14-07-2026

1. Heard the parties.

2. Present petition preferred by the petitioner
under Section 482 of Code of Criminal Procedure (in short
Cr.P.C.) for quashing of order dated 20.01.2017, passed by
learned Sub Judge XIV cum A.C.J.M, Patna, in Complaint
P.S. Case no. 2217(C) of 2016.

3. As per complaint, the petitioner who is an
advocate practicing in Patna Civil Court extended his
professional service for drafting of sale deed which was
typed by one Sunil Kr. Yadav and with this much allegation



this petitioner was made an accused in complaint as the land, in issue which was subject of deal, later on found already sold to someone else.

4. The notice was issued to O.P. No. 2, which was received by his grandson and thus it deemed validly served upon.

5. Learned counsel for the petitioner submitted that the petitioner implicated with present crime in question only for the reason as he extended his professional service for drafting the sale deed being advocate. It is submitted that except this limited allegation no allegation is available against petitioner and as such no case is made out against this petitioner. It is also submitted that none of the witnesses during enquiry named this petitioner despite of that cognizance was taken by Id. Trial court against petitioner in very mechanical manner.

6. In view of aforesaid, learned counsel relied upon paragraph no. 102 of the Apex Court decision in the case of ***State of Haryana and Others vs. Bhajan Lal and Others reported in 1992 Supp (1) Supreme Court***



Cases 335, 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."

7. It would be apposite to reproduce the paragraph no. 6 of complaint petition which is as under:-

"6. यह कि अभियुक्तगण एवं परिवादीगण ने एक रजिस्ट्री का कागात पटना कलेक्ट्रेट में जाकर अभियुक्तों के कथनानुसार अधिवक्ता शुशील कुमार सिन्हा के द्वारा दिनांक 20.06.2011 को तैयार करवाया एवं अभियुक्त सुनिल कुमार यादव ने उस रजिस्ट्री के कागज को टंकन करवाया और परिवादी ने दो लाख पैंतीस हजार रुपया अरविन्द सिंह को भुगतान किया और अरविन्द सिंह ने रजिस्ट्री के कागज पर रुपया प्राप्त के बाद बाये अंगुठे का निशान बना दिया तथा अभियुक्त रामबाबु सिंह ने अरविन्द सिंह का पहचान किया और अभियुक्त देवेन्द्र कुमार पर अपना हस्ताक्षर किया। गवाह के रूप में उस रजिस्ट्री के कागज उस रजिस्ट्री के कागज का फोटो कॉपी संलग्न किया गया जो कि अनुलग्नक I है।"

8. It also appears that during enquiry only aforesaid allegation was disclosed by complainant, whereas rest of the two enquiry witnesses, EW 1 and EW 2 even failed to name this petitioner.

9. Learned APP could not disputed the aforesaid factual submission.

10. In view of aforesaid as petitioner was alleged to draft sale deed in capacity of advocate, where land, in issue, was found disputed later on, this Court is of view that no case is made out against this petitioner, in view of ***Bhajan Lal case (supra)***.

11. In view of aforesaid and by taking note of



golden principles no. 1, 2 and 3 of **Bhajan Lal case**
(supra) the cognizance order *qua* petitioner dated
20.01.2017 stands quashed/ set aside.

12. Let a copy of this judgment be sent to the
learned trial court forthwith.

(Chandra Shekhar Jha, J)

Sudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.07.2026
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