

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30564 of 2024

Arising Out of PS. Case No.-678 Year-2018 Thana- KATIHAR COMPLAINT CASE
District- Katihar

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Kewal Jha, S/o Nageshwar Jha, R/o Sewanagar, Ward No. 25, Baigna,
Katihar, P.S. - Katihar, Distt. - Katihar, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Shambhu Prasad Nunia, S/o Khokha Nunia, R/o vill - Tahirpur Ramol, P.S. -
Ajamnagar, Distt. - Katihar, Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar Singh, Adv.
For the State	:	Mr. Tarun Prasad Mandal, APP
For the O.P. No. 2	:	None

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY

ORAL JUDGMENT

Date : 25-02-2026

Heard the learned counsel for the petitioner and
the learned Addl. Public Prosecutor for the State.

2. Despite valid service of notice on opposite
party No. 2, nobody appears on his behalf.

3. This is an application seeking quashing of the
order dated 12.10.2018 passed by the Court of learned Addl.



Chief Judicial Magistrate-VI, Katihar in connection with Complaint Case No. 678 of 2018, whereby, after taking cognizance of the matter, summons have been issued against the petitioner for the offences under Sections 406 and 504 of the Indian Penal Code.

4. The facts giving rise to the present application is to the effect that a complaint was filed against the petitioner by the complainant/opposite party No. 2, namely, Shambhu Prasad Nunia, who was a 4th grade employee in the R.D.S. College, Salamari, Katihar and his appointment was made by the then In-charge Principal, Shasuzoha Saheb, on contract basis on 11.08.2004. It has been alleged by the complainant/opposite party No. 2 that he has not been paid Rs. 2,500/- per month since 01st of August, 2016 to March, 2018, *i.e.*, for twenty (20) months, which comes to the tune of Rs. 50,000/-. It has further been alleged that the petitioner, with bad intention, has not paid the complainant/opposite party No. 2, the remuneration of Rs. 2,500/- per month, totaling to Rs. 50,000/-.

5. The learned counsel for the petitioner submits that he is quite innocent and has falsely been implicated in this case. It has been submitted that the allegations levelled against the petitioner are false, fabricated and concocted and having no



essence of truth. It has further been submitted that the petitioner is a retired college teacher and was In-charge Principal of R.D.S. College, Salamari, Katihar. It has next been submitted that the petitioner became In-charge Principal of R.D.S. College on 01st of August, 2016 and continued till 15th of July, 2018. It has been submitted that the complainant/opposite party No. 2 was not lawfully appointed and his appointment was without any advertisement and without following the due process of law.

6. The learned counsel for the petitioner further submits that the payments made to the complainant/opposite party No. 2, prior to the petitioner's tenure as In-charge Principal, were objected to in the Audit-Report as unauthorized since there was no approval from the B. N. Mandal University. It has also been submitted that a Vigilance inquiry regarding this and other financial irregularities was initiated against the predecessor of the petitioner, which is still pending.

7. Thus, the learned counsel for the petitioner submits that allowing such payments, which are claimed from the petitioner by the complainant/opposite party No. 2, would amount to contravention of the Bihar Universities Act, 1976. It has been submitted that the learned Court below has taken cognizance in a very mechanical manner and issued summons



against the petitioner, despite the fact that during the enquiry, no material has come-forth to reason out the issuing of summons for such offences. In support of his contention, the learned counsel for the petitioner has placed reliance upon a decision of the Hon'ble Supreme Court in the case of ***Sunil Bharti Mittal V. Central Bureau of Investigation***, reported in ***(2015) 4 SCC 609***.

8. The learned Addl. Public Prosecutor for the State has vehemently opposed the prayer made in the present application and has submitted that the petitioner, while holding the post, had misappropriated the funds and has also violated the statutory provisions of law, which resulted in breach of trust reposed in him by the State and the public at large.

9. After having heard the learned counsel for the petitioner and the learned Addl. Public Prosecutor for the State and on perusal of the materials available on record, it transpires that this is a case of grave misuse of the process of the Court as, admittedly, the complaint has been filed by the complainant/opposite party No. 2 with regard to non-payment of the due amount from the college. The allegations levelled in the complaint is to the effect that the petitioner happens to be the In-charge Principal of the college at the relevant point of time and despite repeated request, the amount of Rs. 50,000/- was not



paid by him to the complainant/opposite party No. 2.

10. From the plain reading of the complaint, it is evident that the allegation is with regard to non-payment of the wages, which were to be paid to the complainant/opposite party No. 2 for his services given to the R.D.S. College, Salamari, Katihar. To the understanding of this Court, this is an apt example of a frivolous complaint filed against the petitioner as there is no ground to proceed ahead in this case, where *prima facie* allegation is of non-payment of wages, that too not by the petitioner but rather the college concerned.

11. This Court is of the view that the case in hand is squarely covered by the decision of the Hon'ble Supreme Court in the case of *State of Haryana and Ors. Vs. Ch. Bhajan Lal and Ors.*, reported in *AIR 1992 SC 604*, as from the bare reading of the complaint case, no *prima facie* case is being made out against the petitioner coupled with the fact that for non-payment of wages the complaint was filed which also amounts to malicious prosecution and, therefore, the continuation of the criminal proceedings against the petitioner on such frivolous complaint would amount to abuse of process of law.

12. Thus, in view of the facts afore-stated and the settled principle of law, laid down in the case of *State of*



Haryana and Ors. Vs. Ch. Bhajan Lal and Ors. (supra), the present application with respect to the petitioner, above-named, stands allowed and the impugned order dated 12.10.2018, referred to above, with respect to him, is set aside. Consequently, the complaint, bearing Complaint Case No. 678 of 2018, and all consequent proceedings initiated pursuant thereto with respect to the petitioner, above-named, stand quashed.

(Sourendra Pandey, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.02.2026
Transmission Date	26.02.2026

