

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4723 of 2019

Arising Out of PS. Case No.-329 Year-2016 Thana- PHULPARAS District- Madhubani

Amrendra Kumar Bhola Prasad Yadav Resident of Belha, P.S Phulparas,
District-Madhubani

... .. Petitioner

Versus

1. State Of Bihar and
2. Virendra Kumar Paswan Dobhi Paswan Resident of Belhar, P.S Phulparas,
District-Madhubani

... .. Opposite Parties

Appearance :

For the Petitioner : Mr. Suraj Samdarshi, Adv.

For the Opposite Parties : Mr. Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 24-07-2026

1. Heard the parties.

2. This present application has been filed for quashing the order taking cognizance dated 19.9.2018 passed by the Additional District & Sessions Judge-cum-Special Judge, SC & ST Act, Madhubani in connection with Phulparas P.S. Case No. 329 of 2016 (G.R. No. 1774 of 2016, T.R. No. 983 of 2018), whereby and whereunder cognizance has been taken under Section 323, 504 of the Indian Penal Code and Section 3(1)(r), 3(2)(va) of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act, 1989.

3. As per the prosecution case, on 13.11.2016 the informant, namely Virendra Kumar Paswan, informed the Officer



Incharge of Phulparas Police Station, District Madhubani, alleging therein that on the call of Smt. Nilam Devi, Head Mistress-cum-Incharge, Middle School, Belha, on 29.9.2016 the informant's wife, namely Shiv Kumari who is also the Ward Member of Ward No. 12, and the Chairman of Shiksha Samiti of the School, came for putting her signature on the desk form. It is further alleged that on the query being made by Shiv Kumari, the wife of the information regarding the expenditure of the School fund, the accused-petitioner, Amrendra Kumar, who is also a Teacher in the same School, abused her by her caste name and also beat her up, whereafter she went to her house and narrated the incidence before her husband, who is the informant of the present case. It is further alleged that thereafter the informant along with the members of the family came to the School, however, the said Amrendra Kumar insulted the informant also and beat him up. It is further alleged that the informant had also approached the SC & ST Police Station at Madhubani.

4. On the basis of aforesaid, Phulparas P.S. Case No. 329 of 2016 was registered on 13.11.2026 against petitioner.

5. Without arguing on other available merits, learned counsel, Ms. Abhilash Jha, appearing on behalf of petitioner straightaway submitted that impugned order dated 19.09.2018 is



on the printed proforma, without application of judicial mind and therefore same is not sustainable in the eyes of law.

6. Despite service of notice, O.P. No. 2 did not appear to join the present pending proceeding.

7. For better understanding of the fact, it would be apposite to reproduce the cognizance order dated 19.09.2018 hereby below:-

गणेश कोर्ट ऑफ ओरिजिनल (SC-ST) मालहारा

19-09-2018

प्रथम अपर जिला एवं सत्र न्यायाधीश, सह विशेष न्यायाधीश एस0सी0 एस0टी0 एक्ट मधुबनी।

G.R. No. - 1774/16

19-09-2018- संज्ञान के बिन्दु पर सूना। अभिलेख का अवलोकन किया। प्राथमिकी, आरोप-पत्र एवं काण्ड दैनिकी में वर्णित अभियुक्त अमरेंद्र कुमार के पिता का नाम- 323, 504 मालहारा मधुबनी जिला 3(1)(र), 3(2)(रा) अंतर्गत जमाना अन्तर्गत अधिनियम के अन्तर्गत प्रथम दृष्टया अपराध का मामला बनता है।

अतः आरोप-पत्र में वर्णित अभियुक्त/अभियुक्तों के विरुद्ध उपरोक्त धाराओं के अन्तर्गत दण्डनीय अपराध का अन्तर्गत लिया जाता है। अभिलेख को विचारण एवं निस्तारण हेतु निजी संचिका में रखा जाता है। का0 लि0 अभियुक्त/अभियुक्तों के विरुद्ध सम्मन निर्गत करे।

दिनांक 19-09-2018 वास्ते उपस्थिति।

लेखापित
विशेष न्यायाधीश
अमरेंद्र कुमार

TR-983/18
GR-1774/16

15/10/18

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8. In the case of **Darshan Singh Ram Kishan v.**

State of Maharashtra , (1971) 2 SCC 654, the Hon'ble Court



was pleased to observe that the process of taking cognizance does not involve any formal action, but it occurs as soon as the Magistrate applies his mind to the allegations and, thereafter, takes judicial notice of the offence. As provided by Section 190 of the Code of Criminal Procedure, a Magistrate may take cognizance of an offence either, (a) upon receiving a complaint, or (b) upon a police report, or (c) upon information received from a person other than a police officer or even upon his own information or suspicion that such an offence has been committed. As has often been held, taking cognizance does not involve any formal action or indeed action of any kind but occurs as soon as a Magistrate applies his mind to the suspected commission of an offence. Cognizance, therefore, takes place at a point when a Magistrate first takes judicial notice of an offence. This is the position where the Magistrate takes cognizance of an offence on a complaint, or on a police report, or upon information of a person other than a police officer. Therefore, when a Magistrate takes cognizance of an offence upon a police report, *prima facie* he does so of the offence or offences disclosed in such report.

9. It is pointed out that Magistrate is not required to pass detailed reasoned order at the time of taking cognizance on



the charge sheet, but it does not mean that order of taking cognizance can be passed by filling up the blanks on printed proforma. At the time of passing any judicial order including the order taking cognizance on the charge sheet, the Court is required to apply judicial mind and even the order of taking cognizance cannot be passed in mechanical manner.

10. In view of aforesaid submission and by taking note of the fact that judicial orders cannot be allowed to be passed in a mechanical manner either by filling in blank on a printed proforma or by affixing a ready made seal etc. of the order on a plain paper. Such tendency must be deprecated and cannot be allowed to perpetuate. This reflects not only lack of application of mind to the facts of the case but is also against the settled judicial norms. Therefore, this practice must be stopped forthwith.

11. The cognizance/summoning of an accused in a criminal case is a serious matter and the order must reflect that Magistrate had applied his mind to the facts as well as law applicable thereto, whereas the impugned cognizance order was passed in mechanical manner without application of judicial mind and without satisfying himself as to which offence were prima-facie being made out against the applicant on the basis of the



allegations made by the complainant. The impugned cognizance order passed by the learned Magistrate is against the settled judicial norms.

12. It appears that this Court is *prima facie* convinced that the cognizance against this petitioner was taken in a very mechanical manner that too in a typed proforma, by way of fill up the blanks, as it is apparent from the impugned order of cognizance, without assigning any reason, therefore, the impugned order dated 19.09.2018 is hereby quashed and set-aside with a direction to learned trial court to pass a fresh order supplying reasons in accordance with law, if the matter is still pending before the learned trial court.

13. Accordingly, the present petition stands allowed.

14. Let the copy of the judgment be sent to learned trial court immediately.

(Chandra Shekhar Jha, J.)

Aniket/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	24.07.2026
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