

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1146 of 2024

Arising Out of PS. Case No.-713 Year-2017 Thana- KOTWALI District- Patna

SHRI PRAKASH CHANDRA DHEERAJ @ PRAKASH CHANDRA
DHEERAJ @ P. C. DHEERAJ S/O SRI MAHESHWAR PRASAD SINGH
VILLAGE- KHESRAHI, P.O.- KHESRAHI, PS. PATEPUR, DIST.
VAISHALI. Petitioner.

Versus

The State of Bihar. Opposite Party.

Appearance :

For the Petitioner : Ms. Eashita Raj, Advocate
Mr. Anuj Kumar, Advocate
Mr. Aditya Raj Singh, Advocate
For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL JUDGMENT

Date : 01-05-2026

Heard Ms. Eashita Raj, learned counsel for the
petitioner and Mr. Ram Priya Sharan Singh, learned Additional
Public Prosecutor for the State.

2. The present application has been preferred by the
petitioner for quashing the order dated 15.02.2018, passed by
the learned Chief Judicial Magistrate, Patna in Kotwali P.S.
Case No.713 of 2017 (G.R. No.8120/2017), whereby and
whereunder the learned Court had been pleased to take
cognizance for the offences punishable under Sections 406, 409,
120B and 420 of the Indian Penal Code (hereinafter referred to
as the 'IPC').

3. Brief facts, as narrated in the F.I.R., giving rise to
the present case, are being enumerated as hereunder:

3.1. The informant, namely, Lallan Singh, Sub-



Inspector of Police, Kotwali Police Station, Patna received an information that a bag has been found in an abandoned condition on the road near the Income Tax Round about and upon receiving such information, a raiding team reached the place of occurrence and in presence of two independent witnesses searched the said bag and found 537 yellow coloured sealed envelopes with Bhartiya Chiktsha Kendriya Parishad, related with election 2017, which was addressed to the Special Secretary-cum-Electoral Officer, Bhartiya Chiktsha Kendriya Parishad, New Delhi (Nirvanchan) Rajya Swasthya Samiti (Nirvanchan Karyalaya), 3rd Floor, Sheikhpura, Patna-14, Bihar. The said envelopes were bearing the bar-code and the speed post tickets. Five other envelopes were also found with the similar address, bar coding and seizure list was prepared.

3.2. Upon enquiry from the G.P.O. office, it was found out that all the envelopes had been issued from the R.M.S., Patna by speed post. It was disclosed by one of the agents that these envelopes were booked on 18.11.2017 and the outsourcing collecting agent, who had booked the articles, namely, Dilip Kumar, further admitted that a person had brought 1000 envelopes on the said date, which was booked by him. However, he did not have any satisfactory answer as to why the



envelopes were accepted with incomplete address as the same was not according to rules.

3.3. One Marketing Executive, Shalabh Kumar Karn disclosed during enquiry that all the articles were sent to National Sorting Home (NSH) and after enquiring from the NSH and upon perusal of document, it was gathered that the said article was indicated in the delivery bill and also reflected in the mail list. However, the same was not received, as such, both Amarnath Prasad (Sorting Assistant of NSH) and Shalabh Kumar Karn were suspected to be guilty in the said matter.

3.4. In course of further enquiry, it was found that status of all the articles, upon tracking the same on India website, were found delivered on 20.11.2017 at 11 am. One Manish Kumar posted as Divisional System Admin in the Server Room further disclosed, upon enquiry, that the updating on this system has been done by one Marketing Executive of R.M.S., Patna, namely, Prakash Chandra Dheeraj, who was not found during enquiry.

4. Upon the above-mentioned written report in the nature of enquiry report, forwarded to the Inspector of Police-cum-S.H.O., Kotwali Police Station, Patna, the present F.I.R., bearing Kotwali P.S. Case No.713 of 2017 dated 17.12.2017



was registered under Sections 406, 409, 420 and 120B of the IPC against the employees of the R.M.S., Patna i.e. the Delivery Agent, Dilip Kumar, Serving Assistant, Amarnath Prasad, Marketing Executive at BPC Office, Salabh Kumar Karn, Prem Chandra Dheeraj (Petitioner) and others with the allegation of entering into a conspiracy by way of which the postal ballots of the Central Council of Indian Medicine for Ayurveda and Unani System was shown to be delivered by updating, without the delivery of the said speed post being done at its destinations.

5. Learned counsel for the petitioner has submitted that an extremely vague allegation is disclosed in the F.I.R. with regard to the petitioner that he had updated the delivery of the article in question on the computer system without the same being delivered. However, in the exhaustive F.I.R., it was not disclosed as to from whose user ID the delivery has been updated. She has further submitted that even for the sake of argument, if it is accepted that the delivery of the article has been updated by the use of the petitioner's user ID, by no stretch of imagination, any criminal intent for the same can be imputed. Neither the F.I.R nor the materials collected during course of investigation disclose in any way that the petitioner was the beneficiary of the alleged conspiracy.



6. It has further been submitted that the materials relied upon by the prosecution, which has been taken note in the order taking cognizance, does not attribute any dishonest intention to the petitioner and the so-called enquiry conducted by the I.O. is perfunctory and lacks evidentiary value inasmuch as, it is based only on statements of other persons who were also arrayed as accused. It is thus submitted that the ingredients of the offences under Section 406, 409, 420 and 120B of IPC are completely absent and as such the impugned order taking cognizance is fit to be quashed.

7. Learned counsel for the petitioner has also submitted additionally that the petitioner had faced departmental proceeding in this regard and was awarded token of punishment for his negligence and carelessness during his duty in the BPC, Patna RMS. It was considered that he had unblemished past services.

8. On the other hand, Mr. Ram Priya Sharan Singh, learned APP for the State has opposed the present application and also filed a counter affidavit through the Senior Superintendent of Police, Patna indicating therein that during the course of investigation in para 11 of the case diary, the case of the prosecution stands supported and the name of the



petitioner features in the same making allegation of criminal conspiracy as the article was not delivered to its destination and was found lying on the road. Paras 4 and 37 of the case diary have also been referred to by the learned APP for contending that there is material collected against the petitioner during investigation, as such, there is no illegality in the impugned order as a *prima facie* case is made out against the petitioner which is the only requirement, at the stage of taking cognizance.

9. Before analysing the rival contentions, it is clarified that since the cognizance order is of the year 2018, a report with regard to the stage of the case had been called for vide order dated 13.02.2026 and it has been reported that till date charges have not been framed.

10. After having heard the rival contentions of the parties and going through the materials on record including the counter affidavit filed by the State and the reply to the counter affidavit filed on behalf of the petitioner, this Court finds that the allegations made in the F.I.R. suffer from the vice of vagueness. The exhaustive F.I.R., which was lodged after conducting a detailed enquiry, does not appear indicative of any criminal intention on the part of the petitioner. The only allegation that has been made against him in the entire narration



of events is that he updated the system showing delivery of certain articles, which had not reached at its place of destination.

11. The counter affidavit and the order impugned refer only to paragraph no. 11 of the case diary and upon perusal of the same, I find that it contains almost the same content of the F.I.R. The other paragraph no.4 referred by the learned APP contains merely the further statement of informant, which is again a reiteration and repetition of facts and paragraph no.37 rather talks of irregularity in discharge of duty without imputing any criminal intent. The materials do not disclose the existence any criminal intention or *mens rea* on the part of the petitioner which can form the basis of making him an accused in a criminal case. As a matter of fact, the materials on record do not even vaguely suggest as to how an offence of cheating has been committed, who has been cheated, by whom and why. All these questions remain totally unanswered by the prosecution.

12. The ingredients to constitute an offence of cheating under Section 420 IPC i.e. (i) deception of a person; (ii) fraudulent or dishonest inducement given by a person intentionally causing another person to deliver any property and (iii) mens rea of the accused at the time of making inducement, are non-existent in the present case. No fraudulent or dishonest



inducement in delivery of any property has been attributed to the petitioner, much less, there being any criminal intention of cheating right at the inception of the offence.

13. So far as the offence of criminal breach of trust under the provisions of Section 406 and 409 of the IPC is concerned, the same is also not made out as there is no direct entrustment of public property given to the petitioner and even if it is considered that entrustment was made to the Postal Department, there is no allegation, whatsoever of any dishonest misappropriation of such property or the conversion of the said property for the use of the petitioner.

14. Thus, the facts and uncontroverted allegations do not disclose the commission of a criminal offence at all, much less the offence as alleged. The implication of the petitioner in a criminal case, thus does not seem to be proper in absence of the essential ingredients of the offence being in existence. The conspiracy angle has also not been made out between the different accused persons and in case of any negligence in duty, responsibility accordingly can be fixed upon the employee of the department.

15. Taking an over all view of the entire facts and circumstances, at best, a case of negligence or dereliction of



duty can be said to be made out against the petitioner. It has been pointed out that the petitioner has already faced a departmental proceeding for the negligence and carelessness shown by him in the discharge of his official duty and he has already been awarded a token of punishment to meet the natural justice, having also taken into consideration his unblemished past services. It has been held by the Hon'ble Apex Court in its several judicial pronouncements including in a judgment passed in the case of **GHCL Employees Stock Option Trust vs. India Infoline Ltd.** reported in **(2013) 4 SCC 505** and **Vesa Holding Pvt. Ltd. vs. State of Kerala** reported in **(2015) 8 SCC 293**, wherein it has been held that where the basic ingredients of an offence are not made out continuance of criminal proceeding against the accused amounts to abuse of process of law.

16. The entire discussion leads this Court to reach a considered conclusion that the present case squarely falls within the ambit of clause (1) and (3) of the case of **State of Haryana vs. Bhajan Lal** reported in **1992 Supp(1) SCC 335** which are as follows:

- (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)
- (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.

17. This Court is, thus, convinced in view of the facts and the law laid down that the continuation of criminal proceedings against the present petitioner would only amount to the abuse the process of the Court as the allegations, at best, would only make out a case of dereliction of duty on the part of the petitioner which would entail civil and administrative consequences.

18. In such view of the matter, the order dated 15.02.2018, passed by the learned Chief Judicial Magistrate, Patna in Kotwali P.S. Case No.713 of 2017 (G.R. No.8120/2017), whereby thef cognizance has been taken is hereby quashed and this application is allowed.

(Soni Shrivastava, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	06.05.2026
Transmission Date	06.05.2026

