IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27022 of 2019

CNR No. BRHC010279492019

Arising Out of PS. Case No.-64 Year-2006 Thana- KEWATI District- Darbhanga

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Shrivastava Shilbhadra, S/o Late Braj Nandan Prasad, Resident of Flat No. 301, Aparajita Apartment, Khajpura, Nalanda Colony, Patna -14

... ... Petitioner

Versus

1. The State of Bihar
2. Anchal Adhikari, Keoti Anchal, District- Darbhanga (Informant) Bihar

... ... Opposite Parties

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Appearance :
For the Petitioner/s : Mr. Ajay Kumar Sinha, Sr. Adv.
: Mr. Pravin Kumar, Adv.
For the Opposite Party/s : Mr. Navin Kr. Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT
Date : 06-10-2026

I.A. No.01 of 2019

1. The present petition preferred to challenge the order dated 22.06.2019, the date on which charges were framed against the petitioner, though the petitioner initially challenged the order rejecting the discharge petition under Section 239 of the Cr.PC.

2. It is submitted that power under Section 482 of the Cr.PC can be exercised at any stage before conclusion of trial.

3. The report as submitted by learned trial

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court also suggest that not a single witness turned up to support the case of prosecution in last 7 years.

4. Considering the aforesaid, and for the reason stated in petition itself, the present petition stands allowed.

5. Learned counsel for the petitioner is directed to take appropriate steps to amend the prayer accordingly.

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6. This is an application for quashing the order dated 30.01.2019 passed by learned A.C.J.M.-IX, Darbhanga, in Tr. No. 609/19/ G.R. No. 1795/2006 arising out of Keoti P.S. Case No. 64/2006, by which the learned court below has rejected the petition for discharge under Section 239 of the Cr.P.C, and also the order dated 22.06.2019 (as amended) through I.A. No.01 of 2019 through which charges were framed against the petitioner.

7. The prosecution case, in brief, is that the petitioner, who was posted as Anchal Adhikari, Keoti, during the relevant period, along with the other accused

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persons, had allegedly facilitated issuance of rent receipt in favour of Bibi Kaniz Fatima by suppressing the pendency of Title Appeal No. 8 of 1988 and by preparing false and forged documents, thereby allegedly causing loss to the Government revenue and weakening the case of the State.

8. Mr. Ajay Kr. Sinha, learned senior counsel for the petitioner submits that the petitioner had acted only in discharge of his official duties as Anchal Adhikari under Bihar Tenants (Holding Maintenance of Record) Act. It is submitted that the application for issuance of rent receipt was duly enquired into by the concerned Karmachari and Circle Inspector and, thereafter, on the basis of their report and the judgment and decree passed by the competent Civil Court, the petitioner had passed the order for issuance of rent receipt.

9. It is further submitted that the allegations against the petitioner arise entirely out of the official order passed by him in his capacity as Anchal Adhikari. The petitioner was a public servant at the

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relevant time and admittedly no previous sanction under Section 197 of the CrPC was obtained before taking cognizance against him.

10. Learned APP opposes the application and submits that the materials collected during investigation disclose the involvement of the petitioner and, therefore, the criminal proceeding should not be quashed at this stage.

11. I have considered the submissions advanced on behalf of the parties and have perused the materials available on record.

12. It is not in dispute that the petitioner was a public servant and was posted as Anchal Adhikari, Keoti at the relevant time. The allegations against him arise from the order passed by him relating to issuance of rent receipt in favour of Bibi Kaniz Fatima.

13. From the materials on record, it appears that the petitioner had acted in his official capacity and the application for issuance of rent receipt had been

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considered after inquiry and recommendation by the concerned Karmachari and Circle Inspector. The petitioner had also taken into consideration the judgment and decree passed by the competent Civil Court.

14. Thus, the alleged acts attributed to the petitioner have a direct and reasonable connection with the discharge of his official duties. The mere allegation that the petitioner had exceeded his authority or had acted improperly in discharge of his official duty would not, by itself, take away the protection available under Section 197 of the CrPC.

15. The Hon'ble Supreme Court in ***S.K. Zutshi and Anr. v. Bimal Debnath and Anr.,*** reported in ***(2004) 8 SCC 31,*** as well as in ***State of Orissa v. Ganesh Chandra Jew,*** reported in ***(2004) 8 SCC 40,*** has explained the scope and object of Section 197 of the CrPC. The protection under the said provision is available where the act complained of has a reasonable connection with the discharge of official duty.

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16. The object of Section 197 of the CrPC is to protect a public servant from vexatious criminal proceedings in respect of acts done or purported to be done in discharge of his official duty. The protection is not meant to place a public servant above law, but where the alleged act has a reasonable nexus with the official duty, the statutory requirement of previous sanction has to be complied with before cognizance is taken.

17. In the present case, the entire allegation against the petitioner arises out of an order passed by him while functioning as Anchal Adhikari. Therefore, there is a clear and reasonable connection between the alleged act and his official duty.

18. Admittedly, no previous sanction under Section 197 of the CrPC was obtained before taking cognizance against the petitioner.

19. In such circumstances, the learned Magistrate was required to consider the requirement of previous sanction under Section 197 of the CrPC before

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taking cognizance of the offences alleged against the petitioner. In the absence of such sanction, the order taking cognizance against the petitioner cannot be sustained in law.

20. Moreover, from the allegations contained in the FIR and the materials referred to in the impugned order, no specific material has been brought on record to show that the petitioner had any dishonest intention or had personally fabricated any document. The petitioner had passed the order in the course of his official duties after the matter had been placed before him upon inquiry by the subordinate revenue authorities.

21. The learned court below, while rejecting the discharge petition, has merely referred to certain paragraphs of the case diary but has failed to consider the mandatory requirement of sanction under Section 197 of the CrPC and the nature of the official acts alleged against the petitioner.

22. In view of the aforesaid facts and

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circumstances, continuation of the criminal proceeding against the petitioner would not serve the ends of justice and would amount to an abuse of the process of the court.

23. Accordingly, the impugned order dated 30.01.2019 and 22.06.2019 with all its consequential proceedings *qua* petitioner as passed by learned A.C.J.M.-IX, Darbhanga is hereby set aside/quashed.

24. The present petition stands allowed.

25. Let the copy of this judgment be communicated to the learned trial court forthwith, with TCR, if any.

(Chandra Shekhar Jha, J.)

Raushan/-

AFR/NAFR	NAFR
CAV DATE	N/A
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