

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.48422 of 2016

CNR No. BRHC010368282016

Arising Out of PS. Case No.-162 Year-1992 Thana- WARISLIGANJ District- Nawada

Sudarshan Ram, Son of Late Damarhi Ram, Resident of Village-Shishwan
Dhala Laxmipur, P.S.-Siwan, District-Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Devendra Kumar Sinha, Sr. Adv.

Mr. Pramod Kumar Sinha, Adv.

For the Opposite Party/s : Mrs. Meena Singh, APP

CORAM: HONOURABLE MR. JUSTICE RANA VIKRAM SINGH

C.A.V. JUDGMENT

Date : 15-10-2026

The present application has been filed under Section 482 of the Code of Criminal Procedure (*in short Cr.P.C.*) for quashing the order dated 17.11.2014 passed by the learned Sub-Divisional Judicial Magistrate (*in short S.D.J.M.*), Nawada in connection with Warisliganj P.S. Case No. 162 of 1992, whereby the application filed by the petitioner seeking his discharge from the proceeding was rejected. The petitioner further seeks quashing of the order dated 24.02.2016 passed by the learned Sessions Judge, Nawada in Criminal Revision No. 85 of 2014, whereby the revision preferred against the aforesaid order was dismissed and the order of the learned S.D.J.M. was affirmed.



2. The prosecution case, in brief, is that Dr. Rajendra Prasad Sinha, the then In-charge Medical Officer, Primary Health Centre, Warisliganj, submitted a written report alleging financial irregularities in the preparation, passing and disbursement of establishment/salary bills of the said Primary Health Centre. It was alleged that Mathura Prasad, who was posted as Head Clerk and was engaged in preparation of the relevant bills, had committed irregularities in the salary bill for the month of October, 1992. Upon scrutiny of the relevant records and bills, an excess amount was allegedly found to have been drawn, which was subsequently alleged to have resulted in misappropriation of Rs.31,801/-.

3. It is alleged that the aforesaid irregularity came to light during examination of the relevant bills, including Bill No. 76/92-93, Bill No. 77/92-93 and 78/92-93 that the excess amount had been withdrawn in respect of the salary bills for the months of July to September, 1992. The petitioner, who was functioning as the Treasury Officer, was subsequently implicated on the allegation that he had also connived in the alleged misappropriation of the Government money.

4. On the basis of the written report, Warisliganj P.S. Case No. 162 of 1992 was instituted on 12.11.1992 for the



offences punishable under Sections 409, 419, 420, 467, 468 and 120-B of the Indian Penal Code (*in short I.P.C.*).

5. During investigation, the investigating agency, finding substantial evidence against the petitioner, submitted *charge-sheet* on 02.03.2007 under Sections 419, 420, 409, 467, 468, 120-B *vide* Charge-sheet No. 26/07, alleging his involvement in the alleged misappropriation of the government money.

6. The learned Trial Court took cognizance of offence under Sections 409, 419, 420, 467, 468, 120-B *Vide* order dated 18.04.2007 and proceeded with the trial, whereafter the petitioner filed an application under Section 239 of the Cr.P.C. seeking discharge from the instant case, contending that there is no evidence collected during investigation, which could show complicity of the petitioner in the alleged crime.

7. The learned S.D.J.M., Nawada, however, rejected the discharge petition *vide* order dated 17.11.2014, which was subsequently affirmed by the learned Sessions Judge, Nawada, by order dated 24.02.2016 in Criminal Revision No. 85 of 2014, where the petitioner has challenged the order of the learned Trial Court.

8. Mr. Devendra Kumar Sinha, learned Senior



Advocate appearing on behalf of the petitioner submits that the petitioner has been falsely implicated in the present case and there is no material collected during investigation to establish his involvement in the alleged misappropriation. It is submitted that the petitioner was posted as Treasury Officer and his role in relation to an establishment bill was limited. Under the relevant provisions of the Bihar Treasury Code and the Bihar Board's Miscellaneous Rules, the primary responsibility for preparation and verification of establishment bills rests upon the Drawing and Disbursing Officer and the concerned bill clerk/accountant.

9. Learned counsel further submits that the petitioner was not named in the FIR and, significantly, it was the petitioner himself who had raised an objection on 09.11.1992, thereby bringing the alleged irregularity to light. It is contended that, despite there being no material showing his participation in the alleged offence, the investigating agency mechanically arrayed him as an accused and submitted charge-sheet against him.

10. Learned Senior Advocate argues that perusal of the statements of witnesses recorded during investigation does not disclose the name or involvement of the petitioner. According to learned counsel, the petitioner has been implicated



merely on the basis of presumption and conjecture, without any evidence showing that he had connived with any other person or had participated in the alleged misappropriation of Government money. It is thus argued that the basic ingredients of the offences alleged against the petitioner are not made out from the materials available on record.

11. Learned Senior Advocate, ultimately, submits that there is also an apparent discrepancy in the amount allegedly misappropriated, pointing out that while the actual amount referred to is Rs.26,940/-, the impugned orders refer to an amount of Rs.31,801/-. It is therefore urged that the orders passed by the learned courts below have been made without proper consideration of the materials on record and that continuation of the criminal proceeding against the petitioner would amount to an abuse of the process of the Court.

12. Mrs. Meena Singh, learned Additional Public Prosecutor for the State opposes the application and submits that the materials collected during investigation disclose a *prima facie* case against the petitioner, who was functioning as the Treasury Officer and was connected with the processing and passing of the relevant bills. It is submitted that the petitioner's defence regarding his limited role and the objection allegedly



raised by him are matters for consideration during trial.

13. She submits that the investigation culminated in submission of charge-sheet against the petitioner and, at the stage of discharge, meticulous appreciation of the evidence is not warranted. The learned courts below have rightly declined to discharge the petitioner and, therefore, no interference is called for in exercise of the inherent jurisdiction of this Court.

14. Heard learned counsel for the petitioner and learned Additional public prosecutor appearing for the State. None appears on behalf of complainant/opposite party No. 2 despite valid service of notice.

15. The principal questions, which fall for consideration are:-

“(i) Whether the allegations and the materials relied upon in the present case disclose the essential ingredients of the offences alleged against the petitioner; and

(ii) Whether continuation of the criminal proceedings against him would amount to an abuse of the process of the Court.”

16. The inherent jurisdiction under Section 482 of the Cr.P.C. is intended to prevent abuse of the process of any Court and to secure the ends of justice. However, such jurisdiction is to be exercised sparingly and with due circumspection. The High Court is not expected to conduct a detailed examination of disputed facts or undertake a mini-trial



while considering a prayer for quashing criminal proceedings.

17. In the case of ***Zandu Pharmaceutical Works Ltd. Vs. Mohd. Sharaful Haque***, reported in (2005) 1 SCC 122, the Hon'ble Supreme Court has held as follows:-

“The High Court should not, in exercise of jurisdiction under Section 482, embark upon an enquiry into whether the evidence is reliable or not, or whether on a reasonable appreciation of the evidence the allegations are not sustainable, for this is the function of the trial Judge.”

18. The Hon'ble Supreme Court, in the case of ***Chilakamarthi Venkateswarlu & Anr. Vs. State of Andhra Pradesh & Anr.***, reported in (2020) 17 SCC 595, has conclusively laid down, in paragraphs 15, 17, 18 & 19, the parameters within which the High Court has to exercise its inherent power under Section 482 Cr.P.C. in the following words:-

“15. In exercising jurisdiction under Section 482 it is not permissible for the Court to act as if it were a trial court. The court is only to be prima facie satisfied about existence of sufficient ground for proceeding against the accused. For that limited purpose, the court can evaluate materials and documents on record, but it cannot appreciate the evidence to conclude whether the materials produced are sufficient or not for convicting the accused.

17. The High Court may have an obligation to intervene under Section 482 of the Code in cases where manifest error has been committed by the Magistrate in issuing process despite the fact that the alleged acts



did not at all constitute offences. Reference may be made to S.W. Palanitkar v. State of Bihar. However, it is important to remember that while exercising powers under this Section, the High Court does not function as a court of appeal or revision.

18. The power under Section 482 CrPC should not be exercised to stifle legitimate prosecution. At the same time, if the basic ingredients of the offence alleged are altogether absent, the criminal proceedings may be quashed under Section 482 CrPC.

19. It is well settled that where the allegations set out in the complaint or the charge-sheet do not constitute any offence, it is open to the High Court, exercising its inherent jurisdiction under Section 482 of the Code, to quash the order passed by the Magistrate taking cognizance of the offence. Reference may be made to M.A.A. Annamalai v. State of Karnatakas, Sharda Prasad Sinha v. State of Bihar and Nagawwa v. V.S. Konjalgi. The inherent power under Section 482 is intended to prevent the abuse of the process of the court and to secure the ends of justice. Such power cannot be exercised to do something which is expressly barred under the Code. Reference may be made to Dharampal v. Ramshri.”

19. The principles emerging from the aforesaid decisions make it clear that the inherent jurisdiction of the High Court is not intended to adjudicate upon the defence of an accused at the threshold. Where the allegations and the material relied upon by the prosecution disclose the essential ingredients of the offences alleged, the proceedings ordinarily ought not to be quashed merely because the accused puts forward an alternative explanation or disputes his involvement.

20. Section 409 of the I.P.C. provides for the



offence of criminal breach of trust by, *inter alia*, a public servant. The essential ingredients of criminal breach of trust are set out in Section 405 of the I.P.C. at this stage it is germane to quote the ingredients:-

“a) the accused was entrusted with property, or entrusted with dominion over property:

(b) the accused had dishonestly misappropriated or converted to their own use that property, or dishonestly used or disposed of that property or wilfully suffer any other person to do so; and

(c) such misappropriation, conversion, use or disposal should be in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract which the person had made, touching the discharge of such trust.

21. In other words, for the invocation of the offence of criminal breach of trust, it is expedient that the use of disposal of the property is made by a persons entrusted with or who has dominion over the property. Furthermore, such an act must not only be done dishonestly but also in violation of any direction of law or any contract, express or implied, relating to carrying out the trust.

22. Applying the aforesaid principles to the facts of the present case, the prosecution allegation relates to the alleged excess withdrawal of salary amounts through discrepancies in the salary bills prepared by the Head Clerk. The petitioner,



however, was posted as Treasury Officer and was associated with the scrutiny and processing of the relevant bills. Whether he had the requisite dominion over the relevant property and whether his conduct, if any, was accompanied by dishonest intention must be examined in the context of the materials collected during investigation. The petitioner's contention that his role was limited to the scrutiny of salary bills does not, by itself, conclusively establish the absence of criminal liability.

23. The petitioner relies upon the objection allegedly raised on 09.11.1992 concerning the salary bill, although such a circumstance may be relevant to his defence, its evidentiary significance cannot be determined in isolation from the other materials relied upon by the prosecution. It would not be appropriate, at the stage of exercising inherent jurisdiction, to treat the said circumstance, as conclusive proof of the petitioner's innocence without examining the complete record.

24. Thus, the claim of the petitioner of him being innocent and the whistle-blower, gets falsified, if one goes through the materials and evidence collected in course of investigation as contained in the case diary of the case.

25. Paragraph 108 of the case diary contains the statement of the In-charge Medical Officer of Primary Health



Centre, Warisliganj, who has described, in detail, the *modus operandi* and the manner in which the embezzlement has been done by the Assistant working in the Primary Health Centre, namely, Mathura Prasad, in connivance with the petitioner being Treasury Officer. This paragraph contains, in detail, the various pay-slip numbers and bill numbers, on which, false amounts have been mentioned against the due and sanctioned amounts and that was accordingly presented and got cleared by the Treasury Office. These bills are with respect to payment of salary, other allowances and deduction to be made in the General Provident Fund (GPF).

26. It has also come that the petitioner *vide* his letter No. 8, dated 08.01.1993, has virtually admitted that he could not punctiliously examined the bills submitted by the Family Health Centre at the time of clearance on account of paucity of time.

27. Further, paragraphs 113 to 122 of the case diary contain, in details, the mode, manner and mechanism through which the Government funds have been embezzled and if one goes through the statement and the documentary evidence mentioned therein, the role of the petitioner being Treasury Officer, in passing the wrongful amount, against the due and



sanctioned amount becomes evident and appears to be collusive in nature.

28. The paragraphs of case diary as mentioned, hereinabove, also contain the details that there are two amounts mentioned in the bill and at the time of final calculation of each billed amount, the amount was enhanced, which does not match with the amount mentioned in the bill and without verifying the said fact, the Treasurer used to clear all those bills, thereby facilitating the swindling and embezzlement of the Government funds.

29. If the role of the petitioner is examined and analyzed in view of the evidence collected in course of investigation, as mentioned hereinabove, it can unequivocally be said that he was definitely in collusion with the officers and staff of the Primary Health Centre, in facilitating the embezzlement of Government fund by clearing the bill, ignoring the wrong calculation and totaling of the bill amount. The petitioner cannot claim to have been falsely implicated in the backdrop of the evidence collected in course of the investigation.

30. Thus, the question whether the prosecution can establish the requisite ingredients of Section 409 of the I.P.C.



against the petitioner must be considered in accordance with law.

31. The offence of cheating punishable under Section 420 of the I.P.C. requires deception and dishonest inducement for better understanding it is apposite to quote the ingredients of section 420 of the I.P.C.:-

“1. The ingredients to constitute an offence of cheating are as follows:

1.1. There should be fraudulent or dishonest inducement of a person by deceiving him:

1.1.a. The person so induced should be intentionally induced to deliver any property to any person or to consent that any person shall retain any property, or

1.1.b. The person so induced should be intentionally do or omit if he were not so deceived; and

1.2. In cases covered the act or omission should be one which caused or is likely to cause damage or harm to the person induced in body, mind, reputation or property.

2. A fraudulent or dishonest inducement is an essential ingredient of the offence. A person who dishonestly induces another person to deliver any property is liable for the offence of cheating. Thus,

3. The ingredients to constitute an offence under Section 420 are as follows:

3.1. A person must commit the offence of cheating under Section 415; and

3.2. The person cheated must be dishonestly induced to:

(a) deliver property to any person;

or

(b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.”



32. In the present case, the prosecution allegations concern the alleged irregularities in the preparation and disbursement of salary bills and the excess withdrawal of public money. The petitioner contends that no specific act of deception or dishonest inducement has been attributed to him. However, whether the circumstances surrounding the processing and scrutiny of the bills disclose the petitioner's participation in the alleged acts cannot be conclusively determined merely on the basis of the assertions made in the present application. The Court, at this stage, is required to examine whether the proceedings are liable to be quashed under the settled principles governing Section 482 of the Cr.P.C., and not to record a final finding on the petitioner's guilt or innocence.

33. The petitioner's reliance upon his official duties and the objection allegedly raised by him may constitute relevant matters for his defence. Nevertheless, those circumstances do not, by themselves, warrant termination of the proceedings without examination of the prosecution materials. The applicability of Section 420 of the I.P.C. must ultimately be assessed in accordance with its essential ingredients and the evidence available in the case.

34. The offence of forgery and making of false



document as defined under Sections 463 and 464 of the I.P.C.

are extracted herein below for ready reference:

“463. Forgery.-Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

464. Making a false document.-A person is said to make a false document or false electronic record:

First-Who dishonestly or fraudulently-

(a) makes, sign, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any digital signature on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the digital signature, with the intention of causing it to be believed that such document or part of document, electronic record or digital signature was made, signed, sealed, executed, transmitted or affixed by or by the authority or a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or Secondly who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with digital signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or Thirdly-who dishonestly or fraudulently causes any person, sign, seal, execute or alter a document or an electronic record or to affix his digital



signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practiced upon him, he does not know the contents of the document or electronic record or the nature of the alteration."

35. It is apposite to note that to attract offence of Section 467 and 468 of the I.P.C., the prosecution must establish that the accused made a false document within the meaning of Section 463 and 464 of the I.P.C., with intent to cheat.

36. The petitioner contends that no specific act of making, signing, executing or altering any false document has been attributed to him. The allegations, as set out in the petition, primarily concern discrepancies in the salary bills prepared by the Head Clerk. However, the question whether any document was forged, the circumstances in which it was prepared or processed, and whether the petitioner had any role or knowledge in that regard must be examined with reference to the relevant documents and the materials collected during investigation.

37. The absence of a specific allegation of forgery in the petitioner's own account does not, by itself, establish that the entire prosecution case is liable to be quashed. The Court cannot, in the exercise of its inherent jurisdiction, undertake a final determination of the genuineness of the relevant documents or the petitioner's knowledge and intention where



such matters require consideration and threadbare analysis of the prosecution record. The petitioner's contentions in this regard are, therefore, insufficient on their own to justify interference with the impugned orders.

38. Section 419 of the I.P.C. provides punishment for cheating by personation, the ingredients of which are governed by Section 416 of the I.P.C. Section 416 of the I.P.C. defines cheating by personation, which is a punishable offence under section 419 of the I.P.C. It is an aggravated form of cheating which consists of impersonating another by pretending to be some other person or knowingly substituting one person for another or representing to the any other person other than the said person really is. It is to be borne in mind that personation by itself is no offence but when a person fraudulently and dishonestly does a fraudulent act and represents himself as another person, section 416 of the I.P.C. will be attracted.

39. The petitioner's application principally challenges his implication in connection with the alleged excess withdrawal of salary amounts and relies upon his official role as Treasury Officer. The precise basis for invoking Section 419 of the I.P.C. must be assessed with reference to the allegations and the materials forming part of the prosecution record. At this



stage, the petitioner has not established, merely through the grounds advanced in the application, that the proceedings as a whole fall within the recognised categories warranting quashing. The applicability of this provision must be determined by the competent court in accordance with law and on the basis of the relevant materials.

40. To constitute an offence under Section 120(B) of the I.P.C., the specific ingredients must be satisfied :

“i. Conspiracy is when two or more persons agree to do or cause to be done an illegal act or legal act by illegal means.

ii. The offence of criminal conspiracy is an exception to the general law, where intent alone does not constitute crime. It is the intention to commit a crime and join hands with persons having the same intention. Conspiracy is hatched in private or in secrecy. It is rarely possible to establish a conspiracy by direct evidence. Usually, the existence of the conspiracy and its objects have to be inferred from the circumstances and the conduct of the accused.

iii. Conspiracy is hatched in private or in secrecy. It is rarely possible to establish a conspiracy by direct evidence. Usually, the existence of the conspiracy and its objects have to be inferred from the circumstances and the conduct of the accused.

iv. Where in pursuance of the agreement, the conspirators commit offenses individually or adopt illegal means to do a legal act that has a nexus to the object of the conspiracy, all of them will be liable for such offenses even if some of them have not actively participated in the commission of those offenses.”

41. Applying the aforesaid principles to the present



case, the prosecution alleges irregularities in the preparation and disbursement of salary bills, resulting in the alleged excess withdrawal of public money. The petitioner contends that no prior meeting of mind or prior understanding between him and the principal accused, has been disclosed and that he had, in fact, raised an objection concerning the salary bill on 09.11.1992. The said contention cannot be treated as conclusive at this stage without examining the materials collected during investigation. Whether the circumstances surrounding the preparation, processing and disbursement of the salary bills, disclose any knowing participation by the petitioner, in a common unlawful design, is a matter which requires consideration in the context of the complete record and which can only be done during trial.

42. The absence of direct evidence of an agreement, by itself, would not be sufficient to discard a prosecution allegation of conspiracy at the threshold. Equally, mere association with the processing of salary bills or the holding of an official position cannot, by itself, establish criminal conspiracy. The decisive consideration is whether the materials relied upon by the prosecution disclose circumstances *prima facie* connecting the petitioner with the alleged common design.



The petitioner's assertion that no such connection exists cannot be accepted as a final conclusion without an examination of the prosecution case in accordance with law.

43. At this stage, the power of the Trial Court to consider the discharge application of an accused under Section 239 of the Cr.P.C. has been delineated and laid down under Chapter XIX of the Cr.P.C., which deals with the trial of the warrant cases by the Magistrate, wherein Sections 238 to 243 prescribes procedure to deal with the cases instituted on a police report. Section 239 stipulates as to the circumstances and condition under which the accused shall be discharged. Section 239 lays down as follows:-

“Section 239. When accused shall be discharged -If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.”

The core ingredients, thus as appears from the aforesaid sections, are:-

(i) *Consideration of police report and documents is sine qua non for the learned Magistrate, in seisin of, the case wherein he has to examine the police report and all documents annexed therewith under Section 173 Cr.P.C.*

(ii) *Option and discretion of the*



Magistrate to examine the accused if he deems it necessary for the aforesaid purpose including affording an opportunity to the accused and the prosecution of fair hearing on the issue; and

(iii) Thereafter having applied his judicial mind, the learned Magistrate is required to pass a reasoned and speaking order, keeping in view, the aforesaid materials as mandated in law.

44. Thus, the learned Magistrate while exercising his power and jurisdiction under Section 239 has to base his order primarily and solely on the prosecution materials and is not allowed to conduct enquiry on meticulous evaluation of the materials so submitted before him, by the investigating agency.

45. If materials placed on record by the investigating agency raises a strong or grave suspicion that the accused committed the offence, charges shall be framed, but on the contrary, if the evidence is so weak that it fails to make out a basic case of raising a strong suspicion, discharge appears to be the proper course of action under Section 239 of the Cr.P.C..

46. In other words, the obligation to discharge the accused under Section 239 Cr.P.C. arises, when the Magistrate considers the charge against the accused to be 'groundless'. The stipulations under Section 239 Cr.P.C. provide for discharge being made before the recording of evidence and the consideration as to whether the charges has to be framed or not,



is required to be made on the basis of the records of the case, including the documents and oral hearing of the accused and the prosecution or the police report, the documents sent along with it and examination of the accused, after affording an opportunity to the parties to be heard.

47. It has been the settled judicial principle that at the stage of consideration of discharge, the Court is not required to undertake a threadbare analysis of the materials gathered by the prosecution. All that is required to be seen at this stage, is that there are sufficient grounds to proceed against the accused. Meaning thereby the materials should be sufficient to enable the Court to initiate the criminal trial against the accused.

48. The nature of evaluation to be made by the Court at the stage of framing of charge came up for consideration of the Hon'ble Supreme Court in ***Onkarnath Mishra & Ors. vs. State (NCT of Delhi) & Anr.***, reported in ***(2008) 2 SCC 561***, wherein it has been held that at that stage, the Court has to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged and it is not expected to go deep into the probative value of the materials on record.

49. In the case of ***State of Maharashtra & Ors. vs.***



Som Nath Thapa & Ors., reported in (1996) 4 SCC 659, the three Judge Bench of the Hon'ble Supreme Court has held :-

“32. if on the basis of materials on record, a court could come to the conclusion that commission of the offence is a probable consequence, a case for framing of charge exists. To put it differently, if the court were to think that the accused might have committed the offence it can frame the charge, though for conviction the conclusion is required to be that the accused has committed the offence. It is apparent that at the stage of framing of a charge, probative value of the materials on record cannot be gone into; the materials brought on record by the prosecution has to be accepted as true at that stage.”

and, subsequently, in the case of ***State of MP vs. Mohanlal Soni***, reported in (2000) 6 SCC 338, the Hon'ble Supreme Court has held:-

“7. The crystallised judicial view is that at the stage of framing charge, the court has to prima facie consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.”

50. Section 239 of the Cr.P.C. lays down that if the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused. The word 'groundless', in my considered opinion, means that there must be no ground for presuming that the accused has committed the offence. The word 'groundless' used in Section 239 of the



Cr.P.C. means that the materials placed before the Court do not make out or are not sufficient to make out a *prima facie* case against the accused.

51. In ***Century Spinning and Manufacturing Co. Ltd. v. State of Maharashtra***, reported in ***AIR 1972 SC 545***, this Court has stated about the ambit of Section 251(A)(2) of the Cr.P.C. 1898, which is in *pari materia* with the wordings used in Section 239 of the Cr.P.C. as follows:-

"It cannot be said that the Court at the stage of framing the charge has not to apply its judicial mind for considering whether or not there is a ground for presuming the commission of the offence by the accused. The order framing the charges does substantially affect the person's liberty and it cannot be said that the Court must automatically frame the charge merely because the prosecuting authorities by relying on the documents referred to in S. 173 consider it proper to institute the case. The responsibility of framing the charges is that of the Court and it has to judicially consider the question of doing so. Without fully advertent to the material on the record it must not blindly adopt the decision of the prosecution."

52. The provisions of discharge under Section 239 Cr.P.C. fell for consideration of this Court in ***K. Ramakrishna and others v. State of Bihar and Anr.***, reported in ***(2000) 8 SCC 547***, and it was held that the questions regarding the sufficiency or reliability of the evidence to proceed further are not required to be considered by the trial court under Section 239 and the High Court under Section 482. It was observed as follows:-



“4. The trial court under Section 239 and the High Court under Section 482 of the Code of Criminal Procedure is not called upon to embark upon an inquiry as to whether evidence in question is reliable or not or evidence relied upon is sufficient to proceed further or not. However, if upon the admitted facts and the documents relied upon by the complainant or the prosecution and without weighing or sifting of evidence, no case is made out, the criminal proceedings instituted against the accused are required to be dropped or quashed. As observed by this Court in Rajesh Bajaj v. State NCT of Delhi, [1999 (3) SCC 259] the High Court or the Magistrate are also not supposed to adopt a strict hypertechnical approach to sieve the complaint through a colander of finest gauzes for testing the ingredients of offence with which the accused is charge. Such an endeavour may be justified during trial but not during the initial stage.”

53. The ambit and scope of exercise of power under Sections 239 and 240 of the Cr.P.C. are, therefore, fairly well settled. The obligation to discharge the accused under Section 239 arises when the Magistrate considers the charge against the accused to be ‘groundless’. The Section mandates that the Magistrate shall discharge the accused recording reasons, if after:-

(i) considering the police report and the documents sent with it under Section 173, Cr.P.C.

(ii) examining the accused, if necessary, and

(iii) giving the prosecution and the accused an opportunity of being heard.

54. He considers the charge against the accused to



be 'groundless', i.e, either there is no legal evidence or that the facts are such that no offence is made out at all. No detailed evaluation of the materials or meticulous consideration of the possible defences need be undertaken at this stage nor any exercise of weighing materials in golden scales is to be undertaken at this stage, the only consideration at the stage of Section 239/240 being as to whether the allegation/charge is 'groundless'.

55. This would not be the stage for weighing the pros and cons of all the implications of the materials, nor for sifting the materials placed by the prosecution- the exercise at this stage is to be confined to considering the police report and the documents to decide whether the allegations against the accused can be said to be 'groundless'.

56. The word 'ground' according to the ***Black's Law Dictionary*** connotes foundation or basis, and in the context of prosecution in a criminal case, it would be held to mean the basis for charging the accused or foundation for the admissibility of evidence. Seen in the context, the word 'groundless' would connote no basis or foundation in evidence. The test which may, therefore, be applied for determining whether the charge should be considered groundless is that



where the materials are such that even if unrebutted, would make out no case whatsoever.

57. Having considered the rival submissions and the principles laid down by the Hon'ble Supreme Court in the cases afore-mentioned, this Court is of the considered view that the inherent jurisdiction under Section 482 of the Cr.P.C. cannot be exercised merely because the petitioner disputes the allegations or advances a defence concerning the nature of his official duties.

58. The discrepancy concerning the amount allegedly withdrawn, as referred to in the petition and the impugned orders, also does not, by itself, furnish sufficient ground for quashing the criminal proceedings. The relevant amount and the circumstances surrounding the alleged withdrawal may be clarified from the original record. The existence of such a discrepancy cannot, without more, lead to the conclusion that the prosecution is liable to be terminated at the threshold.

59. The Hon'ble Supreme Court in *Bhajan Lal's* case has recognised that the power to quash criminal proceedings may be exercised where the allegations fall within the illustrative categories identified therein. However, the



petitioner must demonstrate that the facts of his case justify such interference. This Court is not persuaded to conclude, on the grounds urged in the present application alone, that continuation of the proceedings would necessarily amount to an abuse of the process of the Court.

60. In view of the aforesaid discussion, this Court finds no sufficient ground to exercise its inherent jurisdiction under Section 482 of the Cr.P.C. to quash the impugned orders. The contentions advanced by the petitioner do not, at this stage, warrant interference with the order rejecting the discharge petition or the revisional order affirming the same.

61. Thus, the order dated 17.11.2014 passed by the learned Sub-Divisional Judicial Magistrate, Nawada, in connection with Warisaliganj P.S. Case No. 162 of 1992, and the order dated 24.02.2016 passed by the learned Sessions Judge, Nawada, in Criminal Revision No. 85 of 2014, are not interfered with.

62. Accordingly, the present application stands dismissed.

63. It is clarified that the observations made herein are confined to the adjudication of the present application and shall not be construed as an expression of opinion on the



ultimate merit of the prosecution case. The petitioner shall be at liberty to raise all permissible factual and legal defences before the learned court below, which shall consider the same in accordance with law and on the basis of the materials available on record, uninfluenced by any observation made herein.

64. Generally, the Court does not issue directions for concluding the trial within a specified period of time, but considering the long pendency of the case, which is pending for trial since 2014, whereas the case emanates from Warisliganj P.S. Case No. 162 of 1992, this Court, compelled by the circumstances and inordinate long pendency of this case, directs the learned Trial Court, in *seisin*, with the case to conclude the trial on day-to-day basis without granting unnecessary adjournment to either of the parties and make all out endeavour to conclude the same within a period of six months henceforth.

65. The interlocutory application(s), if any, also stands disposed off accordingly.

(Rana Vikram Singh, J)

Rakesh/Praveen-II

AFR/NAFR	AFR
CAV DATE	28.07.2026
Uploading Date	18.10.2026
Transmission Date	18.10.2026

