

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14209 of 2019**

Arising Out of PS. Case No.-429 Year-2017 Thana- NAWADA District- Nawada

Nutan Verma, D/o Navratan Prasad Verma, R/o Mohalla-Nawagadi, P.S.- Civil Lines, District- Gaya, at present R/o Mohalla-Ramna Road Pitamaheshwar, P.S.- Civil Lines, District- Gaya.

... .. Petitioner

Versus

1. The State of Bihar
2. Maniharsh Bhardwaz, S/o Naresh Singh, Resident of Village-Nardiganj Road, Ghadpar, P.S.-Nagar, District- Nawada

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mrs. Rina Sinha, Advocate

For the Opposite Party/s : Mr. Shyam Bihari Singh, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT**

Date : 13-07-2026

Heard the parties.

2. The present quashing petition has been filed on behalf of petitioner for quashing the order dated 11.09.2018 passed by learned Chief Judicial Magistrate, Nawada in Nawada Town P.S. Case No.429 of 2017, whereby and whereunder the learned Jurisdictional Magistrate took cognizance of the offence under Sections 420 and 406 of the Indian Penal Code (in short 'I.P.C.') as well as Section 138 of the Negotiable Instruments Act (in short 'N.I. Act).

3. As per FIR, Mr. Saurav Kumar Verma, son of



Dwarika Prasad Verma, who is the husband of this petitioner along with petitioner, both resident of Nawagadi, P.S.-Civil Lines, Distt.-Gaya approached the informant/O.P. No.2 for finance of Rs.4,50,000/- to purchase of second-hand Scorpio vehicle but, same was denied, saying that the informant/O.P. No.2 is financing for new vehicle only. It is stated in FIR that as the petitioner and her husband belongs to reputed family, which was well within the knowledge of O.P. No.2, therefore, a cash loan of Rs.4,50,000/- was given to them with assurance that same would be returned within assured time with interest of Rs.50,000/- i.e. total of Rs.5,00,000/-. After completion of loan period, the husband of petitioner drawn a cheque bearing No.20320 at Central Bank of India dated 17.03.2017 in favour of O.P. No.2, which upon presentation, was dishonoured. Consequent upon, the present FIR was lodged for the offence punishable under Sections 406 and 420 of the I.P.C. and 138 of the N.I. Act.

4. It is submitted by Mrs. Rina Sinha, learned counsel appearing for the petitioner that no offence as alleged was committed by this petitioner and she appears



implicated only being wife of the main co-accused namely, Saurav Kumar Verma. In support of her submission, it is argued by learned counsel that the cheque in issue was drawn exclusively by the husband of petitioner for sum of Rs. 5 lakhs in favour of O. P. No. 2. It is pointed out that as she was implicated with present crime in question only being wife, otherwise, no cogent material is available against her.

5. It is further argued by learned counsel that when the cheque was dishonoured, a legal notice was also sent by O.P. No.2, which was sent exclusively to her husband without alleging or demanding any money from this petitioner. It is submitted that as no demand was made through legal notice from this petitioner and as no cheque was drawn by this petitioner, the implication of this petitioner as co-accused with present crime in question is the abuse of the process of law. It is also submitted that same also appears not convincing in view of legal reports of Hon'ble Supreme Court as available through **State of Haryana v. Bhajan Lal, [1992 Supp (1) SCC 335]** and



**Neeharika Infrastructure Pvt. Ltd. vs. State of
Maharashtra and Anrs. [(2021) 19 SCC 401].**

6. Arguing further, it is submitted by learned counsel that the order taking cognizance dated 11.09.2018 suggest on its face that initially the cognizance was taken only against the husband of petitioner but, as this petitioner was named in FIR and when she went to obtain the certified copy of the order, her name was added in order-sheet by way of mischief caused by office staff. It is submitted that petitioner was living separately from her husband namely, Saurav Kumar Verma since 2017 for which FIR was lodged in the year 2018 which was registered as Civil Lines P.S. Case No.97 of 2018 (Annexure-2). It is submitted that since 2017, the petitioner is living separately with her husband.

7. Learned APP while opposing the present quashing petition could not disputed the aforesaid submissions.

8. Despite service of notice, the O.P. No.2 failed to join the present proceeding.

9. It would be apposite to reproduce para-102 of



the **Bhajan Lal's case (supra)**, which is as under:-

“**102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(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) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose



a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(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.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the



institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”.

10. Taking note of the submissions, as advanced by learned counsel appearing for the petitioner and also taking note of the documents as relied upon by the learned counsel for the petitioner, it transpires that the cheque in issue was issued by the husband of the petitioner namely, Saurav Kumar Verma under his exclusive signature (page 17 of the petition). It also transpires from the legal notice dated 27.03.2017 as sent by O.P. No.2 that no demand was raised from petitioner. It also transpires that there is matrimonial discord between the parties for which, FIR was lodged in the year 2018 suggesting that they are living separately due to their matrimonial differences. All these documents are of



unimpeachable qualities, which are sufficient to suggest, that no case for the offences punishable under Sections 406, 420 of the I.P.C. as well as Section 138 of the N.I. Act as alleged appears made against this petitioner.

11. Hence, by taking guiding notes of guideline nos. (1), (3) and (7) of **Bhajan Lal’s case (supra)**, the order taking cognizance dated 11.09.2018 passed by learned Chief Judicial Magistrate, Nawada in Nawada Town P.S. Case No.429 of 2017 *qua* above-named petitioner is hereby quashed/set aside.

12. The application stands allowed.

13. Let a copy of this judgment be communicated to the concerned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.07.2026
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