

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4172 of 2019**

Arising Out of PS. Case No.-70 Year-2013 Thana- KADWA District- Katihar

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Gauri Shankar Paswan Gautam Paswan Vill.- Bourni, P.S- Dandkhora

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Sarveshwar Tiwary, Adv.
For the Opposite Party/s : Mr. Dilip Kumar No.1, APP

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

Date : 28-07-2026

Heard the parties.

2. This application is filed for quashing of order taking cognizance dated 19.10.2016 passed by Sri Ranvijay Kumar, A.C.J.M-IV, Katihar, arising out of Kadwa P.S. Case No. 70/2013 (G.R. No.1054/13) lodged for offences under Sections 420, 409 & 34 of Indian Penal Code.

3. An application was filed by one Yadunandan Paswan, Assistant Godown Manager, Kadwa, State Food Corporation, Katihar before Officer In-charge of Kadwa



Police Station, Katihar on 09.04.2013 and on the basis of said application, the Officer In-charge of Kadwa Police Station has instituted an First Information report bearing Kadwa P.S. Case No. 70/2013 dated 20.04.2013 for offences under Sections 420/406/409/34 I.P.C. against the petitioner and others and police took up investigation in its hand.

4. On the basis of aforesaid, Kadwa P.S. Case No. 70 of 2013 was registered on 20.04.2013 against petitioner.

5. Without arguing on other available merits, learned counsel appearing on behalf of petitioner straightaway submitted that impugned order dated 19.10.2016 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



8/14/9
18-5-18

COURT OF Ranvijay Kumar, A.C.J.M IV, KATIHAR
Kadwa P.s. *10-13*
G.R No *1054-13*

Record has put up the point of cognizance seen F.I.R has lodged
U/S *420, 406, 409, 234* I.P.C.

Charge sheet has submitted U/S *420, 409, 234*

I.P.C. Against accused persons named in the column no 11 of the
charge sheet no. *98-2015*.....

seen The F.I.R charge sheet as well as case dairy it appears that
there is enough materials available on the record to made out Prima -
facie case case for the offence U/S *420, 409, 234*

..... I.P.C.

There is enough materials available in the case dairy for
summoning the accused persons named in column no 11 of the charge
sheet.

Issue summon against accused person namely
① *Bishnu Kant Jha* ② *Gori Shanker Paswan*.

Put up on *19-1-17* for appearance.

Dictated
[Signature]
A.C.J.M.IV,
KATIHAR

TR - *123-17*
D. S. Mahto

COMPARED BY:
COMPARING CLERK
[Signature]

Stamp: BIHAR JUDICIAL STAMP DUTY 00000 00000 0000010 11.6.2018

Stamp: GOVT. OF BIHAR REGISTRATION EXCISE & PROHIBITION DEPT. PURNIA SCORE PURNIA COURT FEE

Stamp: INDIA AUTHORITY NO. 2535

Stamp: 375264

Stamp: 2995 6426303

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

Vs. 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. In view of aforesaid, 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 19.10.2016 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 forthwith, with TCR, if any.

(Chandra Shekhar Jha, J.)

Aniket/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.07.2026
Transmission Date	29.07.2026

