

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27903 of 2023

Arising Out of PS. Case No.-129 Year-2020 Thana- MAKHDUMPUR District- Jehanabad

PRABHAT BHUSHAN SHRIVASTAV SON OF LATE BAGESHWARI
PRASAD RESIDENT OF VILLAGE- MADHUSUDAN NAGAR, PS-
BEUR, PO- ANISHABAD DISTT- PATNA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR, THROUGH CHIEF SECRETARY,
GOVERNMENT OF BIHAR PATNA BIHAR
2. THE STATE OF BIHAR, THROUGH ADDITIONAL CHIEF SECRETARY
DEPT. OF HOME , GOVT. OF BIHAR, PATNA BIHAR
3. THE SECRETARY HOME DEPARTMENT , PATNA BIHAR
4. THE DIRECTOR GENERAL OF POLICE, BIHAR, PATNA BIHAR
5. THE ADDITIONAL DIRECTOR GENERAL OF POLICE, POLICE HEAD
QUARTER, PATNA BIHAR
6. THE INSPECTOR GENERAL OF POLICE, POLICE HEAD QUARTER,
PATNA BIHAR
7. THE INSPECTOR GENERAL OF POLICE,, MAGADH RANGE, GAYA
BIHAR
8. THE DEPUTY SECRETARY HOME DEPARTMENT, PATNA BIHAR
9. THE DISTRICT MAGISTRATE, JEHANABAD BIHAR
10. THE SUPERINTENDENT OF POLICE, JEHANABAD BIHAR
11. THE SECTION OFFICER (SO)-02, HOME DEPARTMENT , PATNA
BIHAR
12. THE STATION HOUSE OFFICER (SHO), PS MAKHDUMPUR BIHAR
13. THE OUT POSTING -IN-CHARGE, TEHTA OP BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Shilpi Keshri, Advocate Mr. Saurabh Keshri, Advocate Mr. Dhyanchand Thakur, Advocate
For the State	:	Ms. Meena Singh, APP
For the Opposite Party	:	None

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL JUDGMENT

Date : 10-08-2026

Heard learned counsel for the petitioner and learned

APP for the State.



2. Despite issuance of notice to the opposite parties, no one appears on their behalf.

3. By way of the present application, the First Information Report (hereinafter referred to as 'FIR') bearing Makhdumpur P.S. Case No. 129 of 2020 dated 19.04.2020 registered under Sections 188, 269, 270, 271 of the IPC and 51(B), 56, 57 of the Disaster Management Act, 2005 has been put to challenge.

4. Learned counsel for the petitioner submits at the outset, that the petitioner, at the relevant time, was the D.S.P., Jehanabad, who was made an accused in the present case along with the Circle Officer and the Block Development Officer for having attended a fish party during period of lockdown and thus, violated the directions of social distancing issued by the District Administration, being government servants. Learned counsel has further pointed out that upon the same allegations, the petitioner was also subjected to departmental proceedings, which has resulted in minor punishment to the petitioner as a delinquent. It is further submitted that even if the petitioner committed some act against the norms, it would have only entailed an administrative liability on account of dereliction of duty and no criminal offence could be levelled against the



petitioner.

5. Learned counsel for the petitioner has also drawn the attention of this Court to the enquiry report with regard to the two other accused persons being the B.D.O. and the Circle Officer (Annexure-12) whereby the above mentioned two persons were exonerated from the allegations and were not found guilty. It is also a fact that the FIR was lodged in the year 2020.

6. Learned counsel has further submitted that as per the guidelines of the Government of India, Ministry of Home Affairs with regard to the social distancing and Natural Disaster Management Act, it has been stated that the District Magistrate would deploy the Executive Magistrate as Incident Commander, would be responsible for overall implementation of any measure in their respective jurisdiction and further Section 60 of the Disaster Management Act, clearly stipulates that cognizance would be taken of an offence under this Act only on a complaint made by the National Authority, the State Authority or the Central Government or any person who has given notice of not less than 30 days in the manner prescribed of the alleged offence. It has been submitted that in the present case, the said procedure has not been followed and instead of a complaint by



the said authorities, the present FIR was registered.

7. Learned APP for the State, however, opposes the present application on the ground that the allegations have been made out from the FIR against the present petitioner.

8. After having heard the parties and having gone through the entire materials on record, it appears that the present FIR has been lodged on a petty issue of attending a fish party by the petitioner during the Covid pandemic lockdown period along with 20-30 other persons. The allegation primarily pertains to violation of social distancing guidelines during the covid pandemic lockdown and the petitioner, who was the D.S.P., may have committed some administrative lapses but it is also a fact that the other co-accused persons faced with similar allegations have already been exonerated. It is also a fact that the petitioner was the then D.S.P. and is now a retired man from service, having an unblemished career.

9. This Court has also noticed that the investigation of the case also has yet not concluded. Further, the Covid-19 Pandemic was itself an enormous challenge and in case of violation of some social distancing guidelines, the powers u/s 482 Cr.P.C., in order to secure the ends of justice, can be invoked. The inherent powers of the Court must come into play



in case a criminal proceeding becomes an abuse of the process of the Court.

10. In the considered opinion of this Court, the present prosecution in the form of the FIR bearing Makhdumpur P.S. Case No. 129 of 2020 dated 19.04.2020 does not deserve to be continued against the petitioner also for the purposes of securing the interest of justice as has been laid down in the case of **State of Haryana vs. Bhajan Lal** reported in **1992 Supp (1) SCC 335**.

11. Accordingly, the FIR bearing Makhdumpur P.S. Case No. 129 of 2020 dated 19.04.2020 and the prosecution arising therefrom is quashed and the present application stands allowed.

(Soni Shrivastava, J)

priyanka/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.08.2026
Transmission Date	14.08.2026

