IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33135 of 2025

CNR No. BRHC010437882025

Arising Out of PS. Case No.-772 Year-2023 Thana- NATHNAGAR District- Bhagalpur

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Amal Raj, S/o Late Maria Louis, R/o Village- Bargama, P.S- Pathargama, Distt.- Godda, Jharkhand- 814147.

... ... Petitioner/s

Versus

1. The State of Bihar
2.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Amit Kumar, Advocate
Mr. Vivek Anand Amritesh, Advocate
Mr.Sudhansu Trivedi, Advocate
For the Opposite Party/s : Mr. Nawal Kishore Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
C.A.V. JUDGMENT

Date : 20-11-2026

1. Heard learned counsel for the petitioner as well as learned A.P.P. for the State.

2. The present application has been filed under Section 528 of the Bharatiya Nagrik Suraksha Sanhita, 2023 (in short 'B.N.S.S.') against the order dated 04.02.2025 passed by the Court of learned Exclusive Special Judge (POCSO)-cum-A.D.J.-VI, Bhagalpur (hereinafter referred to as 'Trial Court') in connection with POCSO Case No.30 of 2024 arising out of Lalmatiya P.S. Case No.772 of 2023, wherein the learned Trial Court has taken cognizance of the offences punishable under Sections 17 and 21

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read with Section 19 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the 'POCSO Act') and Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'J.J. Act') against the present petitioner.

3. The prosecution case, in brief, is that Lalmatiya P.S. Case No.772 of 2023 dated 17.09.2023 came to be instituted on the basis of the written information dated 17.09.2023 submitted by the father of the victim girl (O.P. No.2), alleging sexual harassment of his minor daughter on 27.08.2023, 01.09.2023 & 12.09.2023 by two sports teachers, namely, Mukesh Kumar and Prince Kumar, of the school where the victim was studying. The F.I.R. was registered for the offences punishable under Sections 342, 354(A), 354(B), 506 and 34 of the Indian Penal Code read with Sections 4 and 8 of the POCSO Act against the said Mukesh Kumar and Prince Kumar.

4. It further transpires from the materials on record that during the investigation the learned Trial Court, vide order dated 03.10.2023 issued notice to the concerned Station House Officer as to why Section 6 of the POCSO Act against the named accused and Section 75 of the J.J. Act against the In-charge of the institution (school), had also not been registered in the case.

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Pursuant thereto, the concerned Station House Officer submitted a report dated 17.10.2023 that the informant had not made any allegation against the management or the Principal of the said school, accordingly, the said sections have not been added. However, in view of supervision report of Senior Official, the evidence has been collected against the Principal, whereafter the learned Trial Court, vide order of the same date, directed addition of the present petitioner as an accused in the case and also added Section 75 of the J.J. Act, besides Section 6 of the POCSO Act against the other accused persons. Subsequently, upon completion of investigation, the police submitted charge sheet against the co-accused persons vide Charge Sheet No.150 of 2023 and thereafter vide Charge Sheet No.209 of 2024 against the present petitioner. Thereafter, upon consideration of the materials available on record, the learned Trial Court, vide the impugned order dated 04.02.2025, took cognizance of the offences punishable under Sections 17 and 21 read with Section 19 of the POCSO Act and Section 75 of the J.J. Act, against the present petitioner.

5. Being aggrieved by the aforesaid order of cognizance, the petitioner has preferred the present application invoking the inherent jurisdiction of this Court under Section 528 of the B.N.S.S.

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6. Learned counsel appearing on behalf of the petitioner submitted that the impugned order of cognizance is wholly unsustainable in the eyes of law, inasmuch as neither the F.I.R. nor the statements of the victim recorded under Sections 161 and 164 of the Code of Criminal Procedure disclose any allegation whatsoever against the present petitioner. It is submitted that the petitioner was the Principal of the school and had no role in the alleged commission of the offence by the two sports teachers. It is further submitted that rather, immediately upon coming to know of the allegations, the school management took prompt action by suspending the services of the said teachers on 17.09.2023 and subsequently terminating their services on 18.09.2023. Learned counsel submitted that the petitioner also extended full cooperation to the investigating agency by handing over the CCTV footage of the school. It is thus submitted that there is no material on record to demonstrate any involvement or complicity of the petitioner in the alleged occurrence.

7. Learned counsel for the petitioner further submitted that the petitioner has been implicated in the present case pursuant to the order dated 17.10.2023 passed by the learned Trial Court, without there being any specific allegation or legally admissible material indicating his involvement in the alleged offence. It is

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submitted that even the report submitted by the concerned Station House Officer on 17.10.2023 acknowledges the absence of any allegation against the petitioner in the F.I.R. He next submitted that despite the specific direction issued by this Court vide order dated 09.02.2024 passed in Cr. Misc. No. 9921 of 2024, requiring the State to disclose the materials collected during investigation connecting the petitioner with the alleged offence, no incriminating material has been brought on record to establish his culpability. Learned counsel also submitted that the essential ingredients of Section 75 of the J.J. Act, particularly the requirement of assault, abandonment, abuse, exposure or wilful neglect of the child, are conspicuously absent in the present case.

8. Learned counsel for the petitioner lastly submitted that the offence under Section 17 of the POCSO Act is also not attracted against the petitioner, as there is no allegation or material suggesting that he abetted the commission of any offence under the said Act. It is submitted that the prosecution has failed to disclose any material establishing the liability of the petitioner under Sections 19 and 21 of the POCSO Act. Learned counsel, therefore, submitted that the learned Trial Court has taken cognizance against the petitioner in a mechanical manner, without proper appreciation of the materials available on record and

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without examining whether the essential ingredients of the alleged offences are made out. It is thus submitted that continuation of the criminal proceeding against the petitioner would amount to an abuse of the process of the Court and, accordingly, the impugned order dated 04.02.2025 is fit to be quashed and set aside.

9. Per contra, learned A.P.P. appearing on behalf of the State, while opposing the prayer made on behalf of the petitioner, submitted that the matter may be considered in the light of the materials available on record and the applicable provisions of law. However, he fairly submitted that appropriate order may be passed by this Court, as deemed fit and proper, to secure the ends of justice.

10. Despite ample opportunities provided to the O.P. No.2, none has appeared on his behalf.

11. Before adverting to the rival submissions advanced on behalf of the parties and examining the materials available on record, it would be apposite to briefly notice the scope and ambit of the inherent jurisdiction of this Court under Section 528 of the B.N.S.S. The inherent power of the High Court is intended to give effect to any order under the B.N.S.S., to prevent abuse of the process of any Court and otherwise to secure the ends of justice. Such power, though wide in its amplitude, is required to be

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exercised sparingly, carefully and with circumspection, and only in cases where the continuation of the criminal proceeding would result in manifest injustice or abuse of the process of the Court. At this stage, the High Court is not required to undertake a meticulous examination of the evidence or embark upon an enquiry into the reliability or otherwise of the allegations. However, where the allegations, even if taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence against the accused, or where the uncontroverted materials collected during investigation do not disclose the commission of any offence, the inherent jurisdiction of this Court may appropriately be invoked to prevent an unwarranted criminal prosecution.

12. The principles governing the exercise of such inherent jurisdiction have been authoritatively enunciated by the Hon'ble Supreme Court in ***State of Haryana and Others v. Bhajan Lal and Others***, reported in ***1992 Supp (1) SCC 335***, wherein illustrative categories of cases have been indicated in which the extraordinary jurisdiction of the High Court may be exercised to quash criminal proceedings. One such category is where the allegations made in the F.I.R. or the complaint, even if taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence or make out a case against the

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accused. Another category is where the allegations and the materials collected in support thereof do not disclose the commission of any cognizable offence or where the criminal proceeding is manifestly attended with *mala fide* and instituted with an ulterior motive. It is, however, well settled that the categories so enumerated are illustrative and not exhaustive. Thus, the question which falls for consideration in the present case is whether, having regard to the allegations made in the F.I.R., the statements of the victim, the materials collected during investigation and the charge sheet submitted by the investigating agency, the essential ingredients of the offences for which cognizance has been taken are *prima facie* disclosed against the petitioner, or whether the continuation of the criminal proceeding against him would amount to an abuse of the process of the Court, warranting interference by this Court in exercise of its inherent jurisdiction under Section 528 of the B.N.S.S.

13. Having considered the submissions advanced on behalf of the petitioner, the learned A.P.P. for the State and upon perusal of the materials available on record, this Court finds that the principal issue which arises for consideration is: *"whether the materials collected during the course of investigation disclose the commission of any offence by the present petitioner so as to*

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warrant his prosecution for the offences punishable under Sections 17 and 21 read with Section 19 of the POCSO Act and Section 75 of the J.J. Act?"

14. From perusal of the F.I.R., it appears that the allegations of sexual harassment were directed against two sports teachers of the school, namely, Mukesh Kumar and Prince Kumar. The present petitioner, who was the Principal of the said school, was neither named in the F.I.R. nor was any specific allegation of participation, abetment or omission attributable to him disclosed therein. Further, the victim, in her statement recorded under Section 164 of the Cr.P.C., has not attributed any role to the petitioner. Thus, the foundational allegations, which led to the institution of the criminal case, do not disclose any direct involvement of the petitioner in the alleged occurrence.

15. It further appears that even upon examination of the materials collected during the course of investigation, as reflected in the case diary, no specific or incriminating material has been brought on record to *prima facie* establish the involvement of the petitioner in the commission of the alleged offences. There is no material to indicate that the petitioner had knowledge of the alleged acts of the two sports teachers prior to the occurrence and had intentionally facilitated or abetted the commission thereof. On

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the contrary, the materials placed before this Court indicate that the school management had taken steps to suspend the services of the two teachers on 17.09.2023 and subsequently terminated their services on 18.09.2023. The CCTV footage of the school was also made available to the investigating agency. In the absence of any material demonstrating a culpable act or omission on the part of the petitioner, his mere position as the Principal of the institution cannot, by itself, furnish a sufficient ground for subjecting him to criminal prosecution.

16. So far as the offence punishable under Section 17 of the POCSO Act is concerned, the said provision provides for punishment for abetment of an offence under the POCSO Act. For attracting the said provision, there must be material to indicate that the accused had instigated, intentionally aided or otherwise abetted the commission of the principal offence. In the present case, neither the F.I.R. nor the statements of the victim nor any other material collected during investigation discloses any act of instigation, intentional assistance or participation on the part of the petitioner. Similarly, Section 19 of the POCSO Act casts an obligation upon a person having apprehension or knowledge of the commission of an offence under the POCSO Act to report the same to the Special Juvenile Police Unit or the local police, whereas

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Section 21 provides for punishment for failure to report or record such an offence in accordance with law. However, the mere fact that the petitioner was the Principal of the school does not, in the absence of material establishing his knowledge or apprehension of the commission of the alleged offence and his consequent failure to discharge the statutory obligation, automatically attract penal liability under the aforesaid provisions. The prosecution materials, as placed before this Court, do not disclose the requisite factual foundation to constitute the aforesaid offences against the petitioner.

17. Likewise, in order to attract the provisions of Section 75 of the J.J. Act, there must be material indicating that the person having actual charge of, or control over, a child has assaulted, abandoned, abused, exposed or wilfully neglected the child, or caused or procured the child to be so treated in a manner likely to cause the child unnecessary mental or physical suffering. In the present case, there is no allegation either by the informant (O.P. No.2) or by the victim that the petitioner had subjected her to any form of cruelty, abuse, abandonment or wilful neglect. There is also no material in the case diary to indicate that the petitioner had knowingly permitted or facilitated any such treatment of the victim. The mere fact that the alleged occurrence took place within

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the premises of the school, where the petitioner was serving as Principal, cannot, in the absence of the essential ingredients of the offence, be sufficient to attract the penal consequences contemplated under Section 75 of the J.J. Act.

18. In view of the aforesaid facts and circumstances, this Court is of the considered opinion that the materials available on record, even if taken at their face value and accepted in their entirety, do not disclose the essential ingredients of the offences for which cognizance has been taken against the petitioner. The case, therefore, falls within the parameters laid down by the Hon'ble Supreme Court in ***Bhajan Lal (supra)***, particularly where the allegations and the materials collected during investigation fail to make out a *prima facie* case against the accused. Permitting the criminal proceeding to continue against the present petitioner, in the absence of any foundational material indicating his criminal culpability, would amount to an abuse of the process of the Court.

19. Accordingly, this Court finds that the impugned order dated 04.02.2025 passed by the Court of learned Exclusive Special Judge (POCSO)-cum-A.D.J.-VI, Bhagalpur, in POCSO Case No. 30 of 2024 arising out of Lalmatiya P.S. Case No.772 of 2023, insofar as it relates to the present petitioner, is not sustainable in the eyes of law and is fit to be set aside.

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20. Resultantly, the impugned order dated 04.02.2025, insofar as it relates to the present petitioner, is hereby set aside, and the entire criminal proceeding arising out of POCSO Case No.30 of 2024, pending before the learned Trial Court, stands quashed qua the present petitioner.

21. The present Criminal Miscellaneous Application is, accordingly, allowed.

22. Interim Order(s), if any, stands vacated.

23. Let a copy of this judgment be transmitted to the Court concerned forthwith for needful and compliance.

(Sunil Dutta Mishra, J)

Ritik/-

AFR/NAFR	**NAFR**
CAV DATE	**06.11.2026**
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