IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47802 of 2025

Arising Out of PS. Case No.-336 Year-2024 Thana- COMPLAINT CASE-ARWAL District-Arwal

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1. Haribansh Mahto, son of Late Foolchand Mahto, R/o Vill. - Garkati, PS - Lokariya, Distt. - West Champaran.
2. Rohit Kumar, son of Sachita Nand Singh, R/o Vill. - Bishunpura, PS - Bihta, Distt. - Patna.
3. Raghav Kumar Jha, son of Chiranjiv Jha, R/o Vill. - Hriday Nagar, PS - Birpur, Distt. - Supaul.
4. Prity Kumari, Daughter of Prabhunath Thakur, R/o Vill. - Lala Hatha, PS - Jamu Bazar, Distt. - Siwan.
5. Umesh Ram, Son of Basudeo Ram, R/o Vill. - Taraniya, PS - Chakiya, Distt. - East Champaran.
6. Kriti Kamal, Daughter of Narendra Kumar, R/o Vill. - Jamnapur, PS - Malsalami, Distt. - Patna.

... ... Petitioner/s

Versus

1. The State of Bihar.
2. Tanisha Singh, Wife of Prince Kumar Ranjan, R/o Vill. - Karva Hankar, PO - Bajitpur, PS - Karpi, Distt. - Arwal.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, A.G.
		Mr. Shivendra Prasad, Adv.
For the O.P. No.	:	Mr. Dhirendar Kumar Sinha, Adv.
		Mr. Amrit Lal, Adv.
		Ms. Vaishnavi Kashyap, Adv.
For the State	:	Mr. Ashok Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY

C.A.V. JUDGMENT

Date : 18-02-2026

Heard Mr. P.K. Shahi, the learned Advocate General, assisted by Mr. Shivendra Prasad, the learned counsel

for the petitioners and Mr. Dhirendar Kumar Sinha, the learned counsel, assisted by Mr. Amrit Lal and Ms. Vaishnavi Kashyap, the learned counsels for the complainant/opposite party No. 2. The State has been represented by Mr. Ashok Kumar Singh, the learned Addl. Public Prosecutor for the State.

2. This application, invoking inherent jurisdiction, has been preferred seeking quashing of the order dated 07.05.2025 passed by the learned Chief Judicial Magistrate, Arwal in connection with Complaint Case No. 336 (C) of 2024, whereby the Court has taken cognizance against the petitioners under Sections 74, 115(2), 126(2), 351(2) 352, 333, 331(3), 331(4), 331(5), 331(6) and 330/190 of the Bharatiya Nyaya Sanhita, 2023 *(hereinafter referred to as the **B.N.S.**)*.

3. The factual matrix giving rise to the present application is that one Tanisha Singh, the complainant/opposite party No. 2, made a complaint, bearing Complaint Case No. 336(C) of 2024, in the Court of learned Chief Judicial Magistrate, Arwal on 02.12.2024, alleging that all the accused persons including the petitioners broke down the front and back gate and entered into the house, assaulted the female members present in the house and behaved indecently. It is alleged that the Deputy Superintendent of Police was giving directions to the

accused persons from some other place, which was beyond the coverage of the CCTV. It is further alleged that the named accused persons including the petitioners assaulted the eighty years old grandmother-in-law of the complainant/opposite party No. 2, while a few named police personnel assaulted her mother-in-law and one Raghav Kumar Jha (petitioner No. 3) attempted to outrage the modesty of the mother-in-law of the complainant/opposite party No. 2. It is also alleged that the accused persons, on the pretext of search, asked for the keys of the *Almirah* and even took away the jewellery kept in it. It has been alleged in the complaint that the accused persons damaged the house hold articles of the complainant/opposite party No. 2, causing loss of several lacs. It has further been alleged that the accused persons, who are about hundred in number, came in fifteen vehicles, out of whom some were in civil dress and were holding arms. It has next been alleged that the accused/Raghav Kumar Jha (petitioner No. 3) assaulted the relative of the complainant/opposite party No. 2 with the *butt* of the pistol and took him also in their company. It has lastly been stated that the matter was not reported to the police as the complainant/opposite party No. 2 thought that she would not get justice from the police.

4. On such complaint made by the complainant/opposite party No. 2, the learned Magistrate held an enquiry and took cognizance against the petitioners for the offences under Sections 74, 115(2), 126(2), 351(2) 352, 333, 331(3), 331(4), 331(5), 331(6) and 330/190 of the B.N.S. *vide* order dated 07.05.2025, which order has been impugned in the present petition.

5. Mr. P.K. Shahi, the learned Advocate General appearing on behalf of the petitioners, submits that the order taking cognizance is palpably illegal as the petitioners were the police personnel, who had gone to the house of the complainant/opposite party No. 2 in search of harden criminals and thereby, they were only performing their official duty and, thus, sanction was imperative in view of the provisions of Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023 *(hereinafter referred to as the **B.N.S.S.**) (Section 197 of the Code of Criminal Procedure, 1973)*. It has been submitted that the male members of the family of the complainant/opposite party No. 2 are local outlaws and they are accused in several cases and on the strength of their muscle power, they want to establish supremacy in the locality/area and on the date of alleged occurrence, they had indulged in scuffle and assaulted the

members of the polling party deputed at the time of election of PACS for which two cases, bearing Karpi P.S. Case No. 273/2024 and Karpi P.S. Case No. 274/2024, were lodged against them.

6. The learned Advocate General has submitted that Karpi P.S. Case No. 273/2024 was lodged by accused/petitioner No. 3, namely, Raghav Kumar Jha, in which, there was allegation that the accused persons came in a mob of 40 - 50 persons and indulged in commission of *mar-peet* with the informant as he had asked the two accused persons not to enter inside the polling station. It has been submitted that the informant of Karpi P.S. Case No. 273/2024 had also sustained injuries in course of the occurrence. It has further been submitted that Karpi P.S. Case No. 274/2024 had been registered on the basis of the written report of the Block Supply Officer, in which, it was alleged that on the alleged date of occurrence, the informant was deputed as Magistrate of APCS election and he had objected to the action of the accused persons, who were trying to influence the voters outside the polling station, on which, the accused persons had assaulted the informant and the members of the police party deputed with the informant.

7. It has further been submitted on behalf of the petitioners that the accused male members of the family of the complainant/opposite party No. 2, who were named accused in Karpi P.S. Case Nos. 273/2024 and 274/2024, were trying to influence the result of the election in their favour by using their muscle power and had called miscreants from outside, who were reported to be inside the house of the complainant/opposite party No. 2. It was in this background that the police, in numbers, conducted a raid to arrest the accused persons of Karpi P.S. Case Nos. 273/2024 and 274/2024 and also the unknown criminals involved in the said occurrence. It has been submitted that it was in course of such raid when the police personnel were trying to enter the house of the said accused persons, the lady members not only facilitated in fleeing of the said accused persons from backdoor, they even restrained the police personnel from carrying out their duty and in forcing their entry inside the house, the police had to break open the doors of the house, which was deliberately locked and not being opened. It has, thus, been submitted that the police had gone to the house of the complainant/opposite party No. 2 in discharge of their official duty and had also arrested the accused of both Karpi P.S. Case Nos. 273/2024 and 274/2024.

8. Mr. P.K. Shahi, the learned Advocate General, has submitted that it is in retaliation to such stern action being taken by the police that the present complaint has been filed with malicious intent only to take revenge from the police officers, who were the members of the raiding team involved in such raid.

9. The attention of this Court has been drawn towards the complaint petition, which was not even affidavited, and the learned Magistrate proceeded to make an enquiry, contrary to the settled principles of law. It has been submitted that during enquiry, four witnesses were examined, out of whom, three persons were strangers and were not even the resident of the said village where the house of the complainant/opposite party No. 2 is situated.

10. Mr. P.K. Shahi, the learned Advocate General, has submitted that the learned Magistrate had issued notices to the accused persons to present their response and a few of them had appeared personally and also filed their written response, clearly stating that they (police personnel) had gone to the place of the occurrence, *i.e.*, the house of the complainant/opposite party No. 2, in order to discharge their official duty and they had not committed any illegality by doing so. However, the learned

Magistrate has gone ahead and passed the order, impugned in the present petition.

11. Pointing out to the anomalies in the impugned order, the learned Advocate General has submitted that the learned Magistrate has erred on facts by stating that the police personnel were not the members of the raiding party and, therefore, no sanction for prosecution was required in those cases, moreover it is not mandatory/necessary that all police personnel should be made members of the raiding team rather the duties are assigned on their individual skills and the specific need of the team. It has been submitted that it is a well settled law that the police can search a place without warrant, if the police had reasonable belief that the accused is hiding in a particular place and has committed cognizable offence.

12. The second aspect of the impugned order, it has been argued, that the learned Magistrate had taken note of the fact that the complainant/opposite party No. 2 had given an application to the Collector/District Magistrate for sanction of prosecution against the petitioners, but even after the expiry of the statutory period, neither the sanction was accorded nor the same was refused and, therefore, went on to hold that the sanction was deemed to be granted. It has been submitted by

the learned Advocate General that the learned Magistrate has erred in law, while holding that the police has committed excess by acting beyond authorized limits, which is not the part of discharge of official duty and a *prima facie* offence has been committed as per the evidences led by the complainant/opposite party No. 2 and the enquiry witnesses and, therefore, he has jurisdiction to take cognizance.

13. It has further been submitted that the learned Magistrate has overlooked the fact that the sanction was never sought from the competent authority. It has been submitted that the Collector is not the competent authority to accord sanction for prosecution against the police personnel rather it is the Department of Home, which is the competent authority to accord such sanction and it is an admitted case that no sanction was sought from the Department of Home and, therefore, the question of deemed sanction by efflux of time on an application made before the District Magistrate is not tenable in the eyes of law.

14. The learned Advocate General has pointed out that the learned Magistrate has also referred to the recordings of the CCTV footage produced by the complainant/opposite party No. 2, which reveals that the police had committed offence by

exceeding their jurisdiction and, therefore, the learned Magistrate had held it not to be permissible. To this finding, the learned Advocate General submits that excessive application of force during investigation is not uncommon as it has become a trend to keep the lady members of the family in front and restrain the police to enter the house and takes coercive action against the accused of a cognizable criminal offence and from the video footage, it would be evident that these lady members of the family including the complainant/opposite party No. 2 were trying to restrain the police personnel from carrying out their duty and the reasons for their presence at the house was on account of the fact that the male members of the family of the complainant/opposite party No. 2 were accused of cognizable offence.

15. Mr. P.K. Shahi, the learned Advocate General, has, thus, submitted that the petitioners/police personnel were performing their official duty on the instructions of their superior officers and, therefore, lodging of the present complaint against them and subsequent cognizance order would not only deplete the moral of the police personnel, but also thwart their further actions against hardcore criminals.

16. In support of his contention, the learned

Advocate General has placed reliance upon the judgment rendered by the Hon'ble Supreme Court in the case of ***G.C. Manjunath & Ors. Vs. Seetaram,*** reported in ***(2025) 5 SCC 390***, wherein the Hon'ble Supreme Court has categorically held that if the act is reasonably connected to the discharge of official duty, then sanction is required.

17. The learned Advocate General has also drawn the attention of this Court towards the Full Bench judgment rendered by this Court in case of ***Sri Ram Rekha Pandey Vs. The State of Bihar & Anr.,*** reported in ***2016 (3) PLJR 296***, wherein the Full Bench had taken note of the Notification, issued by the Government of Bihar, dated 16.05.1980, declaring that provisions of Section 197 (2) of the Cr.P.C. shall apply to the *"Officers and Men"* of the Bihar Police Force wherever they may be serving the State of Bihar, charged with maintenance of public order and appointed by the Inspector General of Police, Bihar, or any other Officers specially authorized to appoint any such person of such force under the Police Act, 1861. The Full Bench, thus, held that no Court can take cognizance of an offence, alleged to have been committed by a member of Bihar Police Force; charged with maintenance of public order, while acting or purporting to act in discharge of his official duty

except with the previous sanction of the State Government. The Full Bench had held the said Notification to be within the scope and powers conferred upon the State Government under Section 197 (3) of the Cr.P.C.

18. In view of the aforesaid, it has been argued that the impugned order if allowed to be continued, it would amount to abuse of the process of law. It has, thus, been submitted by the learned Advocate General that the present prosecution is malicious in nature and for such complaints that the requirement of prior sanction under Section 197 of the Code of Criminal Procedure, 1973 *(Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023)* was enumerated, in order to protect public servants from harassment through vexatious and retaliatory legal proceedings and, therefore, the failure to take sanction, makes the entire case liable to be quashed.

19. Mr. Dhirendar Kumar Sinha, the learned counsel appearing on behalf of the complainant/opposite party No. 2, submits that the petitioners, who were the police officials, had forced their entry into the house of the complainant/opposite party No. 2 and had taken law in their hands by assaulting the lady members of the house and the video footage which is also produced along with the counter

affidavit filed on behalf of the complainant/opposite party No. 2 would go on to show that the petitioners had exceeded their jurisdiction and entered the house of complainant/opposite party No. 2 during midnight, committed theft and assaulted women including eight years old woman after breaking the doors of the house. It has been submitted that the actions committed by the petitioners cannot, in all possibility, be held to be in discharge of their official duty and, therefore, there is no application of the provisions contained in Section 223(2) of the B.N.S.S. in the present facts and circumstances of the case.

20. It has further been added that in the departmental enquiry, the petitioner No. 3, namely, Raghav Kumar Jha, was found to be guilty of illegal assault and he has also been suspended, while petitioner No. 4, namely, Prity Kumari, has not appeared before the learned Magistrate and, therefore, the processes under Sections 82 and 83 of the Code of Criminal Procedure, 1973 *(hereinafter referred to as the **Cr.P.C.**)* has been issued against her.

21. Mr. Sinha, the learned counsel appearing on behalf of the complainant/opposite party No. 2, submits that in fact the provisions of Section 395 I.P.C. *(Section 310(2) of the B.N.S.)* would be attracted as in the present case the policemen

were more than five in number and they had committed theft in the house of the complainant/opposite party No. 2. It has been submitted that the accused persons named in the complaint case trespass in the midnight on 29.11.2024 and after breaking the doors of the house, started beating the husband of the complainant/opposite party No. 2, namely, Prince Kumar Ranjan, and also assaulted an eighty years old woman along with other women present in the house. It has further been submitted that the persons who are not even the members of the raiding party had accompanied the police team and, therefore, they have criminally trespassed in the residential house of the complainant/opposite party No. 2. It has been submitted that since the accused persons have committed the offence of house breaking after sunset and before sunrise, they are also liable for punishments under Sections 331(2) and 331(4) of the B.N.S. and such act of the petitioners shows that they had became the perpetrators of crime rather than protectors.

22. The learned counsel for the complainant/opposite party No. 2 refers to the footage of the CCTV and has submitted that the accused persons are seeing dragging the husband of the complainant/opposite party No. 2 from inside the house and the accused persons have beaten him

in the campus in the midnight. It has been submitted that though the petitioner No. 3/Raghav Kumar Jha has claimed to have been admitted at C.H.C., Karpi Sadar Hospital on 29.11.2024 at about 4 O'clock in the evening, however the video footage would show that he was present in the residential house of the complainant/opposite party No. 2 at 11 O'clock in the night and the injuries sustained by him were also found to be simple.

23. The learned counsel for the complainant/opposite party No. 2 has tried to establish that the police though has stated they were looking for the husband of the complainant/opposite party No. 2, who was the Chairman of the PACS since 2019, however he was not made an accused in Karpi P.S. Case No. 273/2024, which was lodged on 29.11.2024, but he has been made an accused in Karpi P.S. Case No. 274/2024, which was lodged on 30.11.2024, after the occurrence committed by the police personnel at the house of the complainant/opposite party No. 2.

24. It has, thus, been submitted on behalf of the complainant/opposite party No. 2 that the police officers have overreached their jurisdiction and have acted beyond their official duty and, therefore, the question of sanction does not

arise and there is no illegality in the impugned order and, accordingly, the present application is fit to be dismissed.

25. The learned Addl. Public Prosecutor for the state has submitted that he has adopted the arguments rendered by the learned Advocate General appearing on behalf of the petitioners.

Consideration:

26. After having heard the learned counsels for the parties and taking note of the respective pleadings made in the quashing application as also in the counter affidavit, this Court has noted two facts, which are essential to be referred before coming to the finding. Firstly, it is an admitted fact that several policemen had went to the house of complainant/opposite party No. 2 on the night of 29.11.2024 and they had forced their entry and in doing so, the complainant/opposite party No. 2 has alleged that they had exceeded their jurisdiction and had gone on to assault the lady members in the family and had also committed theft. The second relevant fact is that the police had indeed been looking for the accused persons in Karpi P.S. Case No. 273/2024, wherein, in the list of accused persons, the name of Ramashish Ranjan and Rocky Kumar features. The complainant/opposite party No. 2 happens to be the daughter-in-

law and *Bhabhi* of aforesaid two accused persons respectively.

27. Thus, from the above, it is clear that the police had not gone to the house of the complainant/opposite party No. 2 without any valid and cogent reason, but to look for named accused persons, who were evading their arrest and had committed a crime, whereby, not only the common people were being affected, but the accused persons had tried to snatch away the service Revolvers of the police personnel and had even assaulted them, who were also subsequently treated. In such view of the matter, the presence of the petitioners at the house of the complainant/opposite party No. 2 was on account of their discharge of official duty, however, in trying to apprehend the accused persons, on facing hostile restraint by the lady members of the family, the police might have exceeded in carrying out such raid. However, it cannot be said that they were present at the place of occurrence without there being any valid and cogent reason.

28. In view of such factual position, the reference to the judgment referred to by the learned Advocate General in the case of ***G.C. Manjunath*** *(supra)* is relevant in the scenario of the present case and paragraphs 41, 42, 43 and 44 are being reproduced hereinbelow for ready reference:

> ***"41.*** *In light of the aforesaid*

judgments, the guiding principle governing the necessity of prior sanction stands well crystallised. The pivotal inquiry is whether the impugned act is reasonably connected to the discharge of official duty. If the act is wholly unconnected or manifestly devoid of any nexus to the official functions of the public servant, the requirement of sanction is obviated. Conversely, where there exists even a reasonable link between the act complained of and the official duties of the public servant, the protective umbrella of Section 197 CrPC and Section 170 of the Police Act is attracted. In such cases, prior sanction assumes the character of a sine qua non, regardless of whether the public servant exceeded the scope of authority or acted improperly while discharging his duty.

***42.** Turning to the case at hand, there is little doubt that the allegations levelled against the accused persons are grave in nature. Broadly classified, the accusations against the accused persons encompass the following:*

(1) abuse of official authority by the accused persons in allegedly implicating the complainant in fabricated criminal cases, purportedly driven by malice or vendetta;

(2) physical assault and ill-treatment of the complainant by the accused persons, constituting acts of alleged police

excess;

(3) wrongful confinement of the complainant; and

(4) criminal intimidation of the complainant.

***43.** In the circumstances at hand, we are of the considered opinion that the allegations levelled against the accused persons, though grave, squarely fall within the ambit of "acts done under colour of, or in excess of, such duty or authority," and "acting or purporting to act in the discharge of his official duty," as envisaged under Section 170 of the Police Act and Section 197 CrPC respectively.*

***44.** This Court, while adjudicating on instances of alleged police excess, has consistently held in Virupaxappa Veerappa Kadampur Vs. State of Mysore, 1962 SCC OnLine SC 395 : AIR 1963 SC 849 and D. Devaraja Vs. Owais Sabeer Hussain, (2020) 3 SCC (Cri) 442 that where a police officer, in the course of performing official duties, exceeds the bounds of such duty, the protective shield under the relevant statutory provisions continues to apply, provided there exists a reasonable nexus between the impugned act and the discharge of official functions. It has been categorically held that transgression or overstepping of authority does not, by itself, suffice to displace the statutory safeguard of requiring prior*

> *government sanction before prosecuting the public servant concerned."*

29. The Full Bench of this Court in the case of ***Sri Ram Rekha Prasad*** *(supra)* has categorically held that in view of the aforesaid Notification, the previous sanction of the offences alleged to have been committed by the police officers, while acting or purporting to act in discharge of their official duty is a condition precedent.

30. The Hon'ble Supreme Court in the case of ***Om Prakash and Ors. Vs. State of Jharkhand Through The Secretary, Department of Home, Ranchi 1 and Anr.,*** reported in ***(2012) 12 SCC 72***, referring to various decisions pertaining to the police excess, held in paragraph 32 as follows:

> ***"32****. The true test as to whether a public servant was acting or purporting to act in discharge of his duties would be whether the act complained of was directly connected with his official duties or it was done in the discharge of his official duties or it was so integrally connected with or attached to his office as to be inseparable from it (K. Satwant Singh Vs. State of Punjab, AIR 1960 SC 266 : 1960 Cri LJ 410). The protection given under Section 197 of the Code has certain limits and is valuable only when the alleged act done by the public servant is reasonably connected with the discharge of his official duty and is*

not merely a cloak for doing the objectionable act. If in doing his official duty, he acted in excess of his duty, but there is a reasonable connection between the act and the performance of public servant of the protection (State of Orissa VS. Ganesh Chandra Jew, [(2004) 8 SCC 40 : 2004 SCC (Cri) 2104]. If the above tests are applied to the facts of the present case, the police must get protection integrally connected with or attached to their office as to be inseparable from it. It is not possible for us to come to a conclusion that the protection granted under Section 197 of the Code is used by the police personnel in this case as a cloak for killing the deceased in cold blood."

31. The Hon'ble Supreme Court in the case of ***Directorate of Enforcement Vs. Bibhu Prasad Acharya & Ors.***, reported in ***(2025) 1 SCC 404***, wherein, in paragraph 8, it has been held as hereunder :

"8. *The expression "to have been committed by him while acting or purporting to act in the discharge of his official duty" has been judicially interpreted. A Bench of three Hon'ble Judges of this Court in Centre for Public Interest Litigation v. Union of India, in para 9, observed thus: (SCC pp. 208-09)*

"9. ..... This protection has certain limits and is available only when the

alleged act done by the public servant is reasonably connected with the discharge of his official duty and is not merely a cloak for doing the objectionable act. If in doing his official duty, he acted in excess of his duty, but there is a reasonable connection between the act and the performance of the official duty, the excess will not be a sufficient ground to deprive the public servant from the protection. The question is not as to the nature of the offence such as whether the alleged offence contained an element necessarily dependent upon the offender being a public servant, but whether it was committed by a public servant acting or purporting to act as such in the discharge of his official capacity. Before Section 197 can be invoked, it must be shown that the official concerned was accused of an offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duties. It is not the duty which requires examination so much as the act, because the official act can be performed both in the discharge of the official duty as well as in dereliction of it. The act must fall within the scope and range of the official duties of the public servant concerned. It is the quality of the act which is important and the protection of this section is available if the act falls within the scope and range of his official duty. There cannot be any universal rule to determine whether there is a reasonable connection between the act done and the official duty, nor is

it possible to lay down any such rule. One safe and sure test in this regard would be to consider if the omission or neglect on the part of the public servant to commit the act complained of could have made him answerable for a charge of dereliction of his official duty. If the answer to this question is in the affirmative, it may be said that such act was committed by the public servant while acting in the discharge of his official duty and there was every connection with the act complained of and the official duty of the public servant. This aspect makes it clear that the concept of Section 197 does not get immediately attracted on institution of the complaint case."

(emphasis supplied)

32. In view of the above discussions and taking into account the judgments rendered by the Hon'ble Supreme Court and the Full Bench of this High Court, this Court is of the view that this is a case, wherein, the indulgence of this Court is warranted in the background of the fact that the petitioners are the police personnel, who had gone to the house of the complainant/opposite party No. 2 in search of harden criminals, who were accused of a cognizable offence, and while doing so, they faced hostile restraint from the lady members of the house and the police personnel, who were discharging their official duty on the instructions of their superior authority, had no

option, but to force their entry into the house and take coercive action with iron hand and in the process, they might have committed excessive and, therefore, in view of this Court, sanction for prosecution was mandatorily required as enshrined under Section 197 of the Cr.P.C./Section 218 of the B.N.S.S.

33. As per the observations of the Hon’ble Supreme Court, mere excess or overreach during the performance of ones official duty, does not disentitle a public servant from the statutory protection mandated by law. The findings arrived at by the learned Magistrate that the police persons were acting beyond their discharge of official duty, cannot be accepted for the fact that the police personnel were admittedly looking for accused persons of a different case, who happened to be related to the complainant/opposite party No. 2 and were resident of the same house and the police had the input that other miscreants, who were also involved in the earlier offence, were hiding themselves at the said place and, therefore, the police had to take action and, thus, it can be said that the police officials (petitioners) were carrying their official duty and the actions were reasonably connected in discharge of their official functions.

34. It is a well settled law that when such

allegations pertain to acts purportedly done in discharge of official duty, no cognizance can be taken by the Magistrate against a public servant without obtaining the previous sanction of the Competent Authority, as mandated under Section 197 of the Cr.P.C. The absence of such sanctions, therefore, render the order taking cognizance against the accused public servant is unsustainable in law.

35. This Court has elaborately discussed the case laws on the point of sanction, and it has been seen that a test was stated by the Hon'ble Supreme Court in the case of Directorate of Enforcement (supra), wherein the Court has observed that if the omission or neglect on the part of the public servant to commit the act complaint of could have been made him answerable for a charge of dereliction of his official duty then, if the answer to such question is in the affirmative, it maybe said that such act was committed by the public servant while acting in the discharge of his official duty.

36. This Court also finds that the finding arrived at by the learned Magistrate about the sanction being deemed to be granted after the efflux of statutory period, cannot be held to be legal as the very application for sanction was made before an authority, who was not competent to grant sanction against the

petitioners and, therefore, the same is held to be not valid.

37. Accordingly, in view of the aforesaid principles of law and taking into account the facts and circumstances of the case, the present application with respect to the petitioners, above-named, stands allowed and the impugned order dated 07.05.2025, referred to above, with respect to them, is set aside. Consequently, the complaint case, bearing Complaint Case No. 336(C) of 2024, and all consequent proceedings initiated pursuant thereto with respect to the petitioners stand quashed.

38. However, the complainant/opposite party No. 2 shall be at liberty to seek sanction from the competent authority in accordance with law.

39. Interlocutory application(s), if any, also stands disposed off accordingly.

(Sourendra Pandey, J)

Praveen-II/-

AFR/NAFR	AFR
CAV DATE	06.02.2026
Uploading Date	18.02.2026
Transmission Date	18.02.2026