

IN THE COURT OF SPECIAL JUDGE, EXCLUSIVE SPECIAL COURT [SC/ST ACT]

Civil Court, Bhagalpur, Bihar

Present: Sri Amit Kumar Singh

Complaint Case No. 936 of 2018**Anita Devi vs. Pradeep Kumar Yadav and Anr**

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	<u>23.06.2026</u>	1. An attendance is filed on behalf of the complainant Anita Devi. Out of two accused persons an attendance is filed on behalf of the accused Bidhan Chandra Chaudhary and a representation petition is filed on behalf of the other accused Pradip Yadav. The case is listed today for pronouncement of order. 2. Case called out. The aforementioned accused appeared along with his learned counsel. The learned counsel for the accused Pradip Yadav pressed the representation petition which is allowed for today only. The complainant is also present with her learned Counsel. 3. This Court is seized of a petition dated 18.12.2025 filed under Section 227 of the Code of Criminal Procedure, 1973 on behalf of the accused Bidhan Chandra Chaudhary and its rejoinder dated 19.01.2026 filed on behalf of the complainant. I have already heard Sri Amit Kumar, the learned counsel for the accused petitioner and Sri B. K. Sah, the learned counsel for the complainant. 4. <u>Contentions on Behalf of the Petitioner:</u> Learned counsel for the petitioner submitted that the petitioner is the absolute owner of land bearing <i>Khata</i> No. 922, <i>Khesra</i> Nos. 3326 and 3482, <i>Rakba</i> 2.615 decimals, <i>admeasuring</i> 720 sq. ft., situated at <i>Nasratkhani, P.S. University, Bhagalpur</i>, by virtue of a registered Sale Deed dated 13.05.2008, executed and registered in the office of the Sub-Registrar, Bhagalpur, vide Document No. 4957, Book No. 1, Cover No. 12, pages 48–53 in CD-10. 5. It is contended that accused no. 2, <i>Jayant Kumar</i>, fabricated a forged General Power of Attorney (GPA) dated 21.05.2015 in his favour, purportedly executed by the petitioner, at the office of the District Sub-Registrar, 24 Parganas, West Bengal. On the strength of this forged	
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instrument, *Jayant Kumar* transferred the land in question to the complainant by Sale Deed dated 16.10.2017. The complainant, having been deceived by *Jayant Kumar* and *Pradip Yadav*, instituted the present complaint case, though the petitioner *Bidhan Chandra Chaudhary* had no role in the alleged conspiracy.

6. It is further submitted that on 17.06.2018, the date of the alleged incident of assault and molestation, the petitioner was not present in Bhagalpur but was in Bangalore with his son. Counsel pointed out material contradictions between the complaint petition and the deposition of the complainant: while the complaint alleged that the petitioner assaulted her and tore her clothes, in her deposition she attributed the assault to *Jayant Kumar*. Similar contradictions are also evident in the depositions of the enquiry witnesses.
7. Reliance was placed on observations made in the bail order dated 15.01.2024. Counsel further argued that the present complaint is a counterblast to *Title Suit No. 168/2018*, filed by the petitioner on 24.04.2018, seeking a declaration that the Sale Deed dated 16.10.2017 be declared null and void. The petitioner had also lodged *FIR No. 146/2018* dated 17.07.2018 at *Tatarpur P.S., Bhagalpur* against the complainant and *Jayant Kumar*.
8. Learned counsel submitted that it is a settled principle of law that if two views are possible, and one of them merely raises suspicion, the court is empowered to discharge the accused at the stage of consideration under Section 227 CrPC, without delving into whether the trial would culminate in conviction or acquittal. Reliance was placed on the judgment of the Hon'ble Supreme Court in *Asim Shariff vs. National Investigating Agency* [2019 (7) SCC 148]. On these grounds, it was urged that the petitioner has no concern with the alleged occurrence and discharge under Section 227

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	<u>23.06.2026</u> Continued	CrPC is warranted. 9. <u>Objections by the Complainant:</u> Learned counsel for the complainant vehemently opposed the petition, submitting that the same is misconceived, premature, and devoid of merit. It was pointed out that cognizance has already been taken against the petitioner under Sections 406, 420, 120B, and 504 of the Indian Penal Code, 1860, as well as under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. 10. Learned counsel argued that the land belonging to the complainant was illegally sold by the accused persons, including the petitioner. The defence plea that the petitioner never executed any GPA in West Bengal is a disputed question of fact, which cannot be adjudicated at the stage of charge. The genuineness and legality of the GPA are matters requiring appreciation of evidence during trial. Similarly, the plea of <i>alibi</i> raised by the petitioner must be proved in the course of trial, as it is settled law that such a defence cannot be considered at the stage of framing charge. 11. It was further submitted that the Court, upon enquiry, has already found a <i>prima facie</i> case against the petitioner, and the credibility or truthfulness of the allegations can only be tested during trial. Learned counsel emphasized that the registered Sale Deed transferring the complainant's property bears the signature of the petitioner as a witness, thereby establishing a <i>prima facie</i> link between him and the co-accused persons. At the stage of charge, the Court is required to consider the cumulative effect of all materials, including the subsequent conduct of the accused, rather than dissecting the case into isolated events to extend undue advantage. 12. Learned counsel asserted that sufficient materials exist on record to	
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	<u>23.06.2026</u> Continued	demonstrate that the petitioner was not a stranger to the transaction; rather, his presence, objections, and conduct clearly indicate a common intention and conspiracy with the co-accused persons. It was also highlighted that summons were issued on 31.05.2019, yet the petitioner surrendered only on 11.01.2024, which reflects contumacious conduct and deliberate abuse of the process of law. 13. The learned counsel further submitted that reliance was placed by the learned counsel for the petitioner on observations made in the bail order dated 15.01.2024, though it was clarified therein itself that such observations were not to be construed as opinions on the merits of the case. 14. Lastly, it was submitted that the petitioner is specifically named in the complaint petition and direct allegations have been levelled against him. The evidence available on record discloses adequate grounds to proceed, and therefore, the petition seeking discharge is not maintainable. 15. <u>Complaint Case:</u> The brief facts, as alleged by the complainant, are that she purchased a parcel of land from <i>Jayant Kumar</i> on the strength of a Power of Attorney executed by <i>Bidhan Chandra Chaudhary</i>. Prior to this transaction, an agreement had been executed by <i>Jayant Kumar</i> for a consideration of ₹24,00,000/- (Rupees Twenty-Four Lakhs), duly signed by <i>Jayant Kumar</i> and <i>Pradip Kumar Yadav</i>. It is further alleged that the complainant thereafter applied for mutation of the said land in her name before the <i>Anchal Office, Nathnagar</i>. At that stage, the original owner of the land filed an objection petition against such mutation, and consequently, the mutation case was rejected. When the complainant demanded possession of the purchased land from the vendors <i>Jayant Kumar</i> and <i>Pradip Kumar Yadav</i>, they refused. It is further alleged that on 17.06.2018, at about 6 PM, while the complainant was returning home, she	
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encountered the accused persons and again requested possession over the said land. At that time, the accused persons abused her in caste-based terms, forcibly snatched her bag, assaulted her, and outraged her modesty.

16. **Consideration by the Court:** I have heard both sides and perused the case record. At the stage of Section 227 CrPC, the Court is required to evaluate whether there is sufficient ground for proceeding against the accused. The test is whether the material on record, if unrebutted, would warrant framing of charge. Detailed appreciation of evidence is not permissible at this stage.

17. The petitioner has sought discharge under Section 227 CrPC primarily on the grounds that he is the absolute owner of the land by virtue of a registered Sale Deed dated 13.05.2008, that the General Power of Attorney dated 21.05.2015 is forged and fabricated, that he was not present at Bhagalpur on the date of alleged occurrence, and that there exist material contradictions in the complaint and depositions. Reliance has also been placed on the judgment of the Hon'ble Supreme Court in *Asim Shariff vs. National Investigating Agency* [2019 (7) SCC 148] to contend that suspicion alone cannot justify framing of charge.

18. On the other hand, learned counsel for the complainant has opposed the petition, submitting that cognizance has already been taken under relevant provisions of the IPC and the SC/ST (PoA) Act, that the plea of forgery of GPA and alibi are matters of evidence to be tested during trial, and that the registered Sale Deed bears the petitioner's signature as a witness, thereby establishing a *prima facie* link with the co-accused. It has further been urged that the petitioner's delayed surrender reflects contumacious conduct and deliberate abuse of process.

19. At this stage, the Court is required only to ascertain whether a *prima facie*

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	<u>23.06.2026</u> Continued	case exists to proceed against the accused. The veracity of the GPA, the plea of <i>alibi</i>, and the contradictions in depositions are all matters which can be examined only during trial upon appreciation of evidence. The settled position of law is that at the stage of charge, the Court is not to weigh the evidence meticulously or determine the probability of conviction or acquittal, but merely to see whether sufficient grounds exist for proceeding. 20. In the present case, the materials on record, including the complaint petition, depositions, and the registered Sale Deed bearing the petitioner's signature, disclose <i>prima facie</i> involvement of the petitioner in the transaction and subsequent conduct alleged by the complainant. The objections raised by the petitioner pertain to disputed facts which cannot be conclusively determined at this stage. These submissions are defences to be established during trial. 21. Accordingly, I find that there is sufficient ground for proceeding against the accused petitioner. Accordingly, the petition dated 18.12.2025 filed on behalf of the petitioner Bidhan Chandra Chaudhary under Section 227 CrPC is hereby dismissed. The case shall proceed to framing of charge against the accused petitioner along with rest co-accused in accordance with law. 22. Let charges be framed under appropriate provisions of law on the next date, i.e., 06.7.2026. The instant discharge petition is disposed of accordingly. Dictated Special Judge Exclusive Special Court (SC/ST Act) Bhagalpur, Bihar	
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