

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68262 of 2023

Arising Out of PS. Case No.-163 Year-2022 Thana- THAKURGANJ District- Kishanganj

PUJA ANAND W/O KAUSHAL KISHOR YADAV RESIDENTS OF SHIV
MANDIR ROAD,DHIBRI,THAKURGANJ,PS THAKURGANJ,DIST
KISHANGANJ.

... .. Petitioner/s

Versus

1. State of Bihar BIHAR
2. MANISH KUMAR CHAUDHARY S/O SRI RAM KISHOR
CHAUDHARY R/O VILLAGE- AND POST OFFICE- KANHAULI, PS.
SAKRI, DIST. DARBHANGA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Ranjan, Advocate
For the Opposite Party/s : Mr.Md. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL JUDGMENT

Date : 17-06-2026

Heard learned counsel for the petitioner as well as
learned counsel for the opposite parties.

2. The instant petition has been filed for quashing the
charge-sheet bearing Charge-Sheet No. 231 of 2022, filed by the
Investigating Officer for offences punishable under Sections 426
and 427 of the Indian Penal Code and under Section 3 of the
Defacement of Property Act, 1987, as also for quashing the FIR
bearing Thakurganj P.S. Case No. 163 of 2022, registered for the
same offences.

3. The allegation is that the informant, a Revenue
Officer working as the in-charge Model Code of Conduct Officer



for conducting the Municipal General Election, 2022 in the absence of the Circle Officer, noticed the election campaign material of the petitioner affixed upon a temple wall and upon an electricity pole.

4. After investigation, the police submitted Charge-Sheet No. 231 of 2022 dated 19.12.2022 for offences punishable under Sections 426 and 427 of the Indian Penal Code and Section 3 of the Defacement of Property Act.

5. Section 426 of the IPC deals with mischief. Section 3 of the Defacement of Property Act, 1987 reads as under:

“3. Penalty for defacement of property. (1)

Anybody who defaces any property in public view by writing or marking with ink, chalk, paint or any other material, except for the purpose of indicating the name and address of the owner or occupier of such property, shall be deemed to have committed an offence under this Act and shall be punishable with imprisonment for a term which may extend to six months or with fine, which may extend to one thousand rupees, or with both.

(2) Where any offence committed under subsection (1) is for the benefit of some other person or a



company or body corporate or an association of persons (whether incorporated or not), then such other person or President, Chairman, Director, Partner, Manager, Secretary, agent or any other officer or person concerned with the management thereof, as the case may be, shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

(3) The owner or the occupier of a private property, after giving written consent, may permit any person or persons contesting an election, to which the Representation of the People Act, 1951 is applicable, either as an independent candidate or on the symbol of a recognised political party, to use his private property for the purpose of election campaign during the period notified by the Election Commission for the completion of the process of that election.

For the purpose of this sub-section, private property means property which is owned or in lawful possession of a person or persons and is not used for any public purposes whatsoever.”



6. Learned counsel for the petitioner relies upon the judgment of the Delhi High Court rendered in the case of ***T.S. Marwa & Ors. vs. State***, reported in ***2008(4) JCC 2561***, wherein it has been held that the mere putting up of a banner will not be covered by Section 3(1) of the analogous provision under the West Bengal Prevention of Defacement of Property Act, 1976, the scheme and language of which is materially similar to the provision here under consideration.

7. Learned counsel for the opposite parties vehemently opposed the quashing of the FIR and charge-sheet.

8. This Court has considered the rival submissions and examined the records. The allegation, as it stands, is that the petitioner's election campaign material was found affixed upon a temple wall and an electricity pole. There is no allegation of any permanent marking, writing with ink or paint, or any other material permanently applied to the surface of the property. The affixing of removable campaign material does not, on a plain reading of Section 3 of the Defacement of Property Act, 1987, amount to the defacement contemplated by the provision. The ratio of ***T.S. Marwa & Ors. vs. State, 2008(4) JCC 2561***, lends persuasive support to this view, the language of the relevant provisions being materially similar. As regards Sections 426 and



427 of the Indian Penal Code, neither the FIR nor the charge-sheet discloses any factual foundation for the allegation that the petitioner committed mischief causing wrongful loss or damage, or that any damage to the extent required under Section 427 was caused. The entire substratum of the criminal proceeding, as disclosed from the FIR and the charge-sheet, does not make out an offence against the petitioner. Allowing the proceedings to continue would amount to an abuse of the process of the Court. Accordingly, the instant quashing application is allowed.

9. The FIR bearing Thakurganj P.S. Case No. 163 of 2022 and Charge-Sheet No. 231 of 2022 are hereby quashed, so far as the petitioner is concerned.

(Ansul, J)

amitkr/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.06.2026
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