

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.9060 of 2022**

Arising Out of PS. Case No.-372 Year-2007 Thana- JAHANABAD District- Jehanabad

NIRJESH KUMAR @ NIRAJ Son of Harindra Sharma Resident of Village -  
Imadpur, Bauri, P.s.- Hulasganj, Distt.- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Pramod Kumar Son of Not Known Head Master Modern Progressive Children School, Jehanabad, Resident of Village - Nizmuddinpur, P.s. and Distt.- Jehanabad.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Anil Kumar , Advocate

For the Opposite Party/s : Mr. Bal Mukund Prasad Sinha, APP

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH**  
**ORAL ORDER**

13-03-2024

Heard learned counsel for the parties.

2. This application has been filed for quashing the order dated 09.02.2021, passed by the learned Court of Presiding Officer Fast Track Court No. II, jehanabad in connection with S.Tr. No. 374 of 2009/14 of 2019 (arising out of Jehanabad P . S. case number 372/07 dated 11/12/2007 ) offences under sections 304 I. P . C .

3 . The prosecution case, in brief, is that on the alleged date and time of occurrence , when the daughter of the informant came to the house, she was very scared, and her head was injured. On asking her about the



occurrence , she said that the headmaster of the school, namely *Pramod Kumar*, had beaten her with a duster, due to which she got a ruptured injury on the head. After that informant went to the office of *Pramod Kumar* asking him for the help in medical treatment, upon which *Pramod Kumar* threatened the informant and scolded him, saying that he (the informant) should leave now; otherwise, informant will be falsely implicated by him in some cases. Thereafter, the informant took her daughter to *Dr. Rajeev Nayan* and got the treatment done . The injury was treated there, and after that, the informant took her daughter to PMCH, Patna, whereby the informant came to know after the C.T. scan that her daughter had edema due to head injury. After a few days of the admission of the daughter of the informant to PMCH, her whole body became loose. The Medical Officer present there told that there is no treatment for this problem and you shall take her to home then on 08.12.2007, the informant took her daughter to his house and in the night of 10.12.2007 the



health of the daughter of the informant deteriorated further and then the informant rushed to the Sadar Hospital, Jehanabad whereby the Medical Officer declared her dead.

4. Learned counsel for the petitioner submits that one petition on 12.01.21 has been filed by the petitioner before the learned Court of F.T.C. II, Jehanabad in S.Tr. No. 374/2009/196/2017 for recalling the witness of examination as per order dated 03.02.2020 on solemn affirmation and he has specifically stated in paragraph Nos. 45, 47, 48, 49, 50 and 51 that he had handed over the original treatments papers regarding the treatment of his daughter, namely Sonam Kumari @ Madhu to the then I.O, Namely Shri Vinay Kumar Das who was transferred and posted at Hajipur where she was murdered and so the original papers cannot be brought on the record. It is further submitted that the petitioner (P.W. 4) has always appeared on the date for re-examination in the said learned court, but the learned court has not taken re-examination of the petitioner due



to COVID 19. After that the petitioner filed a petition on January 12, 2021, for a chance of re-examination and to get the photocopy available on the record exhibited in this case. It is lastly submitted that in the order dated 09.02.21, it has been said that power under Section 311 of the Cr.P.C. has to be exercised in exceptional or extraordinary situations, but the learned court has not accepted this situation as extraordinary or exceptional as to when this case is just one step away from truth, and by recalling those documents, the ends of justice can be achieved. Without consideration of all facts, the learned court rejected the petition for recalling witnesses, and, as such, the said order dated 09.02.21, is fit to be quashed.

5 . On the other hand, learned counsel for the State and opposite party No. 2 vehemently opposed the submissions made on behalf of the petitioner. While supporting the order of cognizance, learned counsel for the Opposite party No. 2 submits that the grounds raised by the petitioner is the defence of the petitioner which can only be looked at the stage of the trial and on these



grounds, order of cognizance cannot be quashed.

6. Heard learned counsel for the parties and perused the materials available on the record, there is serious allegation against this petitioner that he assaulted the daughter of the informant by means of duster due to which she sustained head injury and after some time she died . It is also evident from the plain reading of the F.I.R, that the petitioner was indulged in assault, as a result of which, the daughter of the informant died. Moreover, it is settled principle of law that neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint warranted while examining prayer for quashing of order of cognizance. At this stage, the court could not have gone into the merits of the case. The defence plea of petitioner cannot be entertained in a quashing proceeding, and, as such, I do not find any illegality or infirmity in the order of cognizance, and the petition is fit to be dismissed.



7. Accordingly, this quashing application is  
dismissed.

(Prabhat Kumar Singh, J)

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