

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.28700 of 2023**

Arising Out of PS. Case No.-268 Year-2021 Thana- BARHARA District- Bhojpur

UMESH YADAV Son of Akalu Yadav Resident of vill.- Saraiya, P.S.- Barhara  
(Krishnagarh), Dist.- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Tej Narayan Yadav Son of Late Parash Nath Yadav Resident of vill.-  
Saraiya, P.S.- Barhara (Krishnagarh), Dist.- Bhojpur.

... .. Opposite Party/s

**Appearance :**

|                          |   |                            |
|--------------------------|---|----------------------------|
| For the Petitioner/s     | : | Mr.Rajani Ranjan Pd. Singh |
| For the OP No. 2         | : | Mr. Manoj Kumar            |
| For the Opposite Party/s | : | Mr.Navin Kumar Pandey      |

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH  
SINGH**

ORAL ORDER

3      21-11-2024                      Heard learned counsel for the petitioner and learned  
counsel for the informant as well as learned APP for the State.

2. This application has been filed for quashing the  
order dated 10.09.2021 passed by learned C.J.M, Bhojpur at Ara  
whereby cognizance has been taken against the petitioner in  
Barhara (Krishnagarh) P.S. Case No. 268 of 2021 for the offence  
punishable u/ss 302, 506 read with section 34 of the Indian  
Penal Code.

3. As per the prosecution case, When the informant's  
son was going to market, in the meantime, the accused persons  
along with the petitioner armed with various weapons were  
standing there and on the exhortation of the co-accused



Ghanshyam Yadav, the co-accused Lavkush Yadav assaulted the informant's son with iron rod on his head causing injury to him who became unconscious and the accused Ghanshyam Yadav pulled him by putting Gamchha around his neck. When the informant's brother and nephew came to rescue, all the accused persons fled away by threatening. Thereafter, the injured were taken to hospital and during the course of the treatment, he died.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. It is further submitted that from perusal of FIR, it is clear that there is no allegation against the petitioner of assaulting the deceased and without considering the aforesaid facts and circumstances, the learned court below took cognizance against the petitioner.

5. Learned counsel for the informant as well as learned APP for the State has vehemently opposed the quashing application of the petitioner by submitting that as per FIR, the petitioner is also present along with the other co-accused persons on the spot, therefore, the *prima facie* case is made against the petitioner.

6. Considering the above facts and circumstances of the case and law laid down by the Apex Court in **Rajendra Rajoriya Vs. Jagat Narain Thapak 2018 Cr. LJ 1832 (SC)**,



this court do not find it safe to invoke the extraordinary inherent jurisdiction of the court u/s 482 of the Cr.P.C. to quash the order of cognizance.

7. Accordingly, the present quashing application is dismissed.

**(Chandra Prakash Singh, J)**

guddukr/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

