

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50392 of 2025

Arising Out of PS. Case No.-981 Year-2024 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Abhay Shimba @ Dr. Abhay Shimba @ Dr. Abhaya Shimb S/O Late Dr. J.N. Verma R/O 440 AP Colony, P.S.-Rampur, Dist.- Gaya.
 2. Prabhat Sinha @ Prabhat Kumar Sinha S/O Rana Prasad Sinha R/O LIG-14 Housing Colony, P.S.-Rampur, Dist.- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Devendra Kumar Pathak S/O Late Gopal Plathak R/O 439 AP Colony, P.S.-Rampur, Dist.- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajni Kant Mishra, Advocate
For the Opposite Party/s : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 15-12-2025

Heard learned counsel appearing on behalf of the
petitioner and learned APP for the State.

2. The petitioners have preferred the application
under Section 482 Cr.P.C. / 528 BNSS for quashing of the order
dated 19.11.2024 passed by the learned Judicial Magistrate 2nd
Class, Gaya in complaint case no. 981 of 2024 whereby he has
taken cognizance for the offence under Sections 504, 427 read
with Section 34 of the Indian Penal Code.

3. The prosecution story, in brief, is that the
complainant, who is the Director of several educational
institutions, has alleged that on 25.06.2024, while he was at his



residence, the petitioners entered into his house and started using abusive language against him and also called him a rapist. When the complainant protested, petitioner no. 2 allegedly took out his pistol and threatened the complainant and forcibly took away a sum of Rs. 10,000/- from him. It is further alleged that prior to this incident, on 20.06.2024, while the complainant was unloading bricks for repairing of his house, petitioner no. 1 abused him and asked him not to store the bricks there, leading to hot talk between them.

4. Learned counsel appearing on behalf of the petitioners submitted that petitioner no.1 is a retired doctor and is a next door neighbour of Opposite party No.2, whereas petitioner no.2 is brother-in-law of the complainant/O.P. No.2. He further submitted that due to obstruction caused in the movement of the vehicle, the petitioner no.1 had requested the complainant to store the stone chips to some other place, so that the vehicle can pass easily, but the Complainant took it in other way and started quarreling with the petitioners and in order to malign the reputation of petitioner no. 1, a concocted complaint case has been filed. On these grounds, the petitioners seeks quashing of the order taking cognizance.

5. Learned APP, appearing on behalf of the state



submitted that the learned District Court after considering, all the materials available on record has rightly taken cognizance against the petitioners and there is no infirmity in the order taking cognizance.

6. Heard the parties.

7. Having considered rival submissions made on behalf of the parties, it is admitted in the complaint that occurrence took place because of obstruction caused by the brick and stone chips on the roadside. From the perusal of the complaint and solemn affirmation of the witnesses, I find it proper to reproduce paragraph nos.4, 6 and 7 of the complaint, which are as under:

“4. That in the meantime both the accused persons entered into the compound of the complainant started abusing in filthy language to the complainant where upon complainant asked them to control to their tongue, upon which accused no.2 picked up country made pistol from his pocket and told in threatening tone to keep silence otherwise be ready to face dire consequence seeing pistol the complainant and his witnesses who were sitting there became afraid.

6. That on 20.06.2024 in the morning when the complainant was unloading the bricks for repairing of his house, the accused no.1 entered into the hot discussion to the driver of the tractor and told him not stocked bricks near by my house. Complainant again told accused no.1 that bricks are being stored to the road but accused no.1 without any rhyme and reason abused the complainant and also told him in presence of so many unknown persons that your are rapist.

7. That the complainant informed the matter to the local police who visited to spot and pacify the matter. After some time the complainant went to Ramp police and submitted a written report but the local Ranpur Police in collusion of the accused no.1 not received his written report but complainant went to the office of S.S.P. Gaya and



handed over the copy of written report which was received by one Himansu Police staff.”

8. Cognizance has been taken under Sections 504 and 427 read with 34 of the Indian Penal Code. The aforesaid sections are reproduced hereinafter:

“504. Intentional insult with intent to provoke breach of the peace.—Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

427. Mischief causing damage to the amount of fifty rupees.—Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

34. Acts done by several persons in furtherance of common intention.—

When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone”

9. At this stage, I find to analyze, as to whether, the Magistrate on the basis of the material and evidences before him has given consideration to the same or not? The intentional insult is one of the ingredients to attract Section 504 of the Indian Penal Code. The ingredients of Section 504 of IPC were explained by the Apex Court in case of ***Mohd. Wajid v. State of U.P.***, reported in ***(2023) 20 SCC 219*** as under:-

“29. Section 504 IPC contemplates intentionally insulting a person and thereby provoking such person insulted to breach the peace or intentionally insulting a person knowing it to be likely that the person insulted may be provoked so as to cause a breach of the



public peace or to commit any other offence. Mere abuse may not come within the purview of the section. But, the words of abuse in a particular case might amount to an intentional insult provoking the person insulted to commit a breach of the public peace or to commit any other offence. If abusive language is used intentionally and is of such a nature as would in the ordinary course of events lead the person insulted to break the peace or to commit an offence under the law, the case is not taken away from the purview of the section merely because the insulted person did not actually break the peace or commit any offence having exercised self-control or having been subjected to abject terror by the offender.

30. In judging whether particular abusive language is attracted by Section 504 IPC, the court has to find out what, in the ordinary circumstances, would be the effect of the abusive language used and not what the complainant actually did as a result of his peculiar idiosyncrasy or cool temperament or sense of discipline. It is the ordinary general nature of the abusive language that is the test for considering whether the abusive language is an intentional insult likely to provoke the person insulted to commit a breach of the peace and not the particular conduct or temperament of the complainant."

10. I find that no case under Sections 504 and 427 read with 34 of the Indian Penal Code is made out against the petitioners.

11. From perusal of the complaint, it is evident that the said occurrence took place on a petty dispute between the petitioners and O.P. No.2. Petitioner no.1 is neighbour and petitioner no.2 is own brother-in-law of O.P. No.2. I find that if the petitioners are allowed to face prosecution under Sections 504 and 427 read with 34 of Indian Penal Code, the same will amount to abuse of process of court. Accordingly, the entire proceedings and impugned order dated 19.11.2024 passed by the learned Judicial Magistrate 2nd Class, Gaya in complaint



case no.981 of 2024 are hereby **quashed and set aside**.

12. Accordingly, the quashing application stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.12.2025
Transmission Date	24.12.2025

