

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.78181 of 2018

Arising Out of PS. Case No.-1054 Year-2016 Thana- NAWADAH COMPLAINT CASE
District- Nawada

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1. Chandra Mouleshwar, Son of Late Mahendra Singh,
 2. Shekhar Kumar Singh @ Jitendra Kumar, Son of Chandra Mouleshwar,
 3. Tutoo Kumar @ Kunal Kumar, Son of Chandra Mouleshar, All are resident of Mohalla- New Area, Durga Mandal Road, In front of Modern School, Nawadah, Police station District- Nawadah.

... .. Petitioner/s

Versus

1. State of Bihar
2. Ajay Kumar, Son of Kailash Prasad, Resident of Village - Bermi, Police Station- Nawadah (Kadirganj O.P.), District- Nawadah.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun Kumar, Advocate.
For the Opposite Party/s : Smt. Reena Sinha, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 03-11-2025

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

2. The present application has been filed under
Section 482 of the Cr.P.C. for quashing of the order taking
cognizance dated 20.09.2018 in connection with Complaint
Case No.1054 of 2016, whereby cognizance has been taken by
the learned Additional Chief Judicial Magistrate-I, Nawada,
under Section 384 of the Indian Penal Code.

3. The prosecution case in brief is that the informant
(Opposite Party No. 2) filed Complaint Case No. 1054 of 2016
before the learned Chief Judicial Magistrate, Nawadah, on
26.09.2016. It was alleged that on 25.09.2016 at about 11 A.M.,



the accused persons came to his brick kiln claiming to be men of Ranveer Sena and demanded ₹5,00,000 as rangdari (extortion). On his protest, petitioner no. 2 allegedly caught hold of his collar, and petitioner no. 3 placed a pistol on him, threatening to kill him. It was further alleged that petitioner no. 1 forcibly took ₹3,00,000 from the complainant and while fleeing, petitioner no. 3 fired at him, which, however, did not hit. The informant also stated that when he approached the local police, his complaint was not registered, and he was advised to file a complaint case. Consequently, Complaint Case No. 1054 of 2016 was instituted under Sections 386, 387, 452, and 34 of the Indian Penal Code, and Section 27 of the Arms Act. Upon recording the statement of the complainant and witnesses under Section 202 Cr.P.C., the learned court below took cognizance under Section 384 IPC vide order dated 20.09.2018 and issued summons against all the three accused persons, who are father and sons.

4. Learned counsel appearing on behalf of the petitioners submitted that the petitioners are innocent and have been falsely implicated in the present case due to previous enmity and a pending monetary dispute with the informant. The allegations in the complaint are wholly concocted and improbable. Learned counsel further submitted that as the



petitioners and the complainant were in good relationship, the petitioners had given a sum of Rs. 5 lacs to the complainant for running a brick kiln. The complainant with an intention not to return back the said money has implicated the petitioners in a false case on the allegation that the petitioners belong to a banned organization and had also on the point of pistol extorted a sum of Rs. 3 lacs. Learned counsel further submitted that for realization of Rs. 5 lacs along with interest, the petitioners have already filed a Money Suit No. 09 of 2017. By giving criminal cloak to the dispute which is purely civil in nature, the petitioners are facing prosecution which is unwarranted and would amount to abuse of process of law.

5. Learned counsel further submitted that notices vide order dated 28.04.2025 were issued upon the opposite party no.2 and it has already been served upon opposite party no.2, as it would appear from the report submitted before this Court by the learned District Court. The opposite party no.2 despite of service of notice has remained unrepresented.

6. *Per contra*, learned APP appearing on behalf of the State submitted that cognizable offence is made out against the petitioners from the face of the complaint which does not call for any interference with the order taking cognizance dated 20.09.2018 based on materials.



7. Heard the parties.

8. Having heard the rival submissions and considering the nature of allegation made in the complaint, which reveals a cognizable offence. The complaint was filed in the year 2016 and cognizance was taken on 20.09.2018 under Section 384 of the Indian Penal Code. Vide the order dated 28.04.2025, notices were issued upon the opposite party no.2, the complainant who despite having received notice has remained unrepresented. The conduct of the complainant shows that the complainant is not willing to proceed with the present case. The petitioners have made out a case that for realization of the amount of Rs. 5 lacs which he had handed over to the complainant in terms of the memorandum of agreement dated 08.07.2014 has filed a money suit no. 09 of 2017 in the court of learned Sub Judge, Nawada and there is no information from the pleading made in the instant application in respect of final outcome of the said money suit. At the same time, considering the fact that the complainant has alleged that petitioners are members of a banned organization, in such circumstances, I am constrained to pass any order on the basis of the pleading made in the present application, as well as, relief sought for.

9. However, the learned District Court is directed to call both the parties and after verifying from the records and



after obtaining report from the concerned Superintendent of Police and the police station under whose jurisdiction the petitioners reside, may verify, as to whether, the petitioners are member of any of the banned organization and any criminal cases are pending against them, in that case, the learned District Court may take appropriate steps by proceeding further with the trial in accordance with law. If it is found otherwise that no case is pending against the petitioners and the present case has been filed merely to implicate the petitioners in a false case giving criminal element, in that case, the learned District Court may give opportunity to the parties to settle their dispute outside the court in light of the law laid down by the Apex Court in the case of *Naushey Ali & Ors. Vs. State of Uttar Pradesh & Anr.* reported in *(2025) 4 SCC 78* and pass a necessary order in accordance with law.

10. Accordingly, the present quashing application stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.11.2025
Transmission Date	05.11.2025

