

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74349 of 2024

Arising Out of PS. Case No.-338 Year-2020 Thana- DEEPNAGAR District- Nalanda

1. Renu Devi @ Renu Kumari Wife of Birendra Paswan @ Biren Paswan Resident of Vill- Sarvoday Nagar, P.S.- Deepnagar, Dist.- Nalanda
2. Richa Arya @ Riya Kumari @ Richa Kumari D/O Birendra Paswan @ Biren Paswan Resident of Vill- Sarvoday Nagar, P.S.- Deepnagar, Dist.- Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar
2. Prabhuwan Prasad Son of Late Ram Ashish Prasad R/O Vill.- Lakhibagh, P.S.- Masaudhi, Dist.- Nalanda.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Raj Kumar Rajesh, Advocate Mr. Ranvijay Singh, Advocate Mr. Jeet Kishore Mahto, Advocate Mr. Sanjeev Kumar, Advocate
For the Informant	:	Mr. Binod Murari Mishra, Advocate
For the Opposite Party/s	:	Mr. Aditya Narayan Singh.1, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT

Date : 22-08-2025

Heard Mr. Raj Kumar Rajesh, the learned counsel for the petitioners, Mr Binod Murari Mishra, the learned counsel for the Informant and Mr. Aditya Narayan Singh-1, the learned A.P.P. for the State.

2. The present application has been filed against the order dated 13.09.2024 passed by learned C.J.M., Nalanda at Biharsharif in Deepnagar P.S. Case No. 338 of 2022 (G.R. No. 1005424/2020) whereby cognizance under Sections 302, 120(B) and 34 of the



I.P.C. has been taken against the petitioners upon submission of supplementary charge-sheet.

3. The present application has arisen out of Deepnagar P.S. Case No. 338 of 2020 which was lodged by one Prabhuwan Prasad alleging therein that the marriage of the informant's third daughter, Neha Kumari was solemnized in the year 2010 with one Ravi Kumar. It is further alleged that on 02.10.2020 the mobile phone of the daughter and son-in-law of the informant were found to be switched off and on suspicion, the informant arrived at the house of his daughter and found the door locked and foul smell was coming out from the locked room. The informant further alleged that on suspicion, the police was informed, who came and broke the lock and it was found that the informant's daughter, Neha Kumari, son-in-law, Ravi Kumar and granddaughter Jenni and grandson Ahan were lying dead. The informant suspected that the named accused persons including the petitioners were behind the conspiracy in killing them all.

4. The learned counsel for the petitioners submit that initially one Devnand Paswan had come forward stating therein that five named accused persons were seen entering the house of the deceased and they had also threatened him not to disclose anything.



It is further submitted that the police arrested the said five accused persons and recorded their confessional statements and even in their confessional statements, the name of the petitioners did not surface and subsequently charge-sheet was submitted against the five accused persons and supplementary investigation was kept pending against the present petitioners and others. The learned counsel next submits that the trial against those five accused persons proceeded and they have been convicted in this case, however, the police upon further investigation submitted a supplementary charge-sheet no. 404/2022 against the present petitioners for offences under Sections 302, 120B, 34 of the I.P.C.

5. The learned counsel for the petitioners submit that even during the course of supplementary investigation, no evidence has come against the present petitioners and it was only on suspicion, the petitioners have been roped in and it is settled principle of law that suspicion howsoever strong cannot take the shape of evidence. Learned counsel has submitted that the deceased was own brother of petitioner no. 1 and maternal uncle (*mama*) of petitioner no. 2 and there has been no motive against the petitioners alleged by the informant.



6. The learned counsel for the petitioners further submits that from perusal of the impugned order dated 13.09.2024, it would be evident that the order is cryptic, in view of the fact that no reference of any evidence has been given by the learned Court below while taking cognizance. It is further submitted that in fact from the last paragraph, it is clear that no order was passed taking cognizance and no notice had been issued as contemplated under Section 190 of Cr.P.C., i.e., 210 of B.N.S.S. It is further submitted by the learned counsel for the petitioners that the impugned order does not contain the details of the materials which has been collected by the police during the course of investigation in order to find *prima facie* case against the petitioners and hence the order is illegal and fit to be set aside.

7. The learned counsel appearing on behalf of the informant has opposed the present application and has stated that the order taking cognizance is speaking and well detailed order which can be found from perusal of the second paragraph of the last page of the impugned order where the learned Court below has taken into account the supplementary charge-sheet and the supplementary case diary into account prior to holding that there was *prima facie* evidence to take cognizance against the petitioners.



8. The learned counsel for the O.P. No. 2 has stated that the present application is completely misconceived and there is no illegality in the order taking cognizance and therefore, the present application is fit to be dismissed.

9. Considering the aforesaid submissions made by the respective parties and going through the impugned order, it is evident that the learned Court below has taken into account the case diary as well as the supplementary charge-sheet into account and has held that there is enough evidence to take cognizance against the petitioners and therefore summons were issued against them.

10. It is a well settled law that at the time of taking cognizance, a *prima facie* case has to be made out and from perusal of the charge-sheet, which has been brought on record by way of Annexure-P/2, it is clear that the police has recorded that on the statement of the informant and other witnesses examined there is enough evidence for submission of charge-sheet against the petitioners and therefore there is no occasion for this Court to interfere, where a *prima facie* case is being made out on account of the evidence which has been collected during the course of investigation. The learned counsel has not been able to show as to whether there is any evidence contrary to what has been found by



the police which has been recorded in the charge-sheet and therefore, this Court finds that the order impugned does not need any interference.

11. In view of the aforesaid, the present application is dismissed.

(Sourendra Pandey, J)

Siwani/-

AFR/NAFR	NAFR
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