

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43703 of 2016

Arising Out of PS. Case No.-1194 Year-2015 Thana- KHAGARIA COMPALINT CASE
District- Khagaria

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1. Rajesh Kumar Jaiswal
 2. Rajeev Kumar Jaiswal, Both sons of Late Yogendra Prasad Chaudhary, both Resident of Village and P.O.- Shumbha Gaji Ghat, P.S.- Allouli, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bhagirath Paswan S/o Nago Paswan both Resident of Village and P.O.- Shumbha Gaji Ghat, P.S.- Allouli, District- Khagaria.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Satya Prakash Sinha, Advocate
		Mr. Sanjay Kumar Pandey, Advocate
For the State	:	Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 27-01-2026 Heard learned counsel for the petitioners and learned
Special Public Prosecutor for the State.

2. The present petition has been filed by the petitioners under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'Cr.P.C.') seeking quashing of the order dated 23.01.2016 passed by the Court of the A.C.J.M.-I, Khagaria, in Trial No. 1171 of 2015 arising out of Protest-cum-Complaint Case No. 1194C of 2015 (Khagaria S.C. & S.T. P.S. Case No. 16 of 2015), whereby cognizance of the offences punishable under Sections 341, 323 and 504 of the Indian Penal Code (hereinafter referred to as 'IPC'), and under Section 3(1)



(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as the 'SC/ST Act') has been taken and the petitioners have been summoned to face trial for the said offences.

3. Mr. Satya Prakash Sinha, learned counsel appearing for the petitioners, submits that there is a longstanding land dispute between the petitioners and O.P. No. 2 and, in this regard, sufficient documents such as Annexures 6 to 10 have been filed before this Court in this miscellaneous petition. O.P. No. 2 initially lodged an FIR after an inordinate delay of seven days, which was investigated by the police. After the investigation, the police found the allegations made by O.P. No. 2 in his FIR to be false and, consequently, the petitioners were not sent up by the police. Upon submission of the final report, the learned trial court accepted the same and, prior thereto, notice was directed to be issued to the informant/O.P. No. 2. Thereafter, the final report submitted by the police was accepted by the learned trial court, and an enquiry was conducted by the trial court upon filing of the protest petition by O.P. No. 2; however, that order was not proper and legal. It is further submitted that the complainant/O.P. No. 2 failed to produce any medical evidence to support the allegation of



physical assault, and the alleged place where the occurrence of assault is stated to have taken place was not a public place.

4. On the other hand, Mr. Sadanand Paswan, learned Special P.P. appearing for the State, submits that there is sufficient material for proceeding with the alleged offences of which cognizance has been taken, and there is sufficient prima facie material to show the petitioners' role in the commission of the alleged offences. In this regard, the statements of five enquiry witnesses examined on the protest petition before the concerned Magistrate are relevant. Further, the prosecution story narrated by O.P. No. 2 in his protest petition itself shows the commission of the alleged occurrence at a public place, which was a tea shop.

5. Heard both sides and perused the impugned order as well as the relevant materials. The allegations levelled by O.P. No. 2 in his protest petition prima facie show the commission of the alleged offences of which cognizance has been taken. Though the police found the allegations to be false, the learned Magistrate proceeded on the protest petition filed by O.P. No. 2, and during the course of enquiry, five witnesses, among whom some did not belong to the Scheduled Castes, supported the allegations. Though there is a land dispute



between the parties, merely for this reason the allegations levelled by O.P. No. 2 cannot be termed to be completely baseless, particularly in view of the statements of the five enquiry witnesses. The petitioners have not been able to demonstrate that the allegations levelled by O.P. No. 2 in his protest petition are frivolous and baseless. Further, in light of the civil dispute pending between the parties, a motive on the part of the petitioners may be presumed to commit the alleged occurrence. Furthermore, at present, the case of the petitioners is at the stage of evidence, as per the office note. Considering all these facts, this Court finds no reason to interfere with the impugned order, and there being no merit in this petition, the same stands dismissed.

(Shailendra Singh, J)

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