

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38410 of 2025

Arising Out of PS. Case No.-813 Year-2024 Thana- NAWADAH COMPLAINT CASE
District- Nawadah

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1. Arvind Chaudhary @ Arvind Kumar son of Late Mahendra Chaudhary R/o - Murhena, P.S - Rajauli, District - Nawadah
 2. Juli Devi @ July Kumari @Jully Devi wife of Arvind Chaudhary @ Arvind Kumar R/o - Murhena, P.S - Rajauli, District - Nawadah
 3. Sunaina Devi Wife of Late Mahendra Chaudhary R/o - Murhena, P.S - Rajauli, District - Nawadah

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sabo Devi Wife of Nande Chaudhary R/o - Murhena, P.S - Rajauli, District - Nawadah

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Arun Kumar, Advocate
For the State	:	Ms. Dr. Indihar Kumari, APP
For the Informant	:	Mr. Akhilesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL JUDGMENT

Date : 06-01-2026

Heard learned counsel for the petitioners and learned counsel appearing on behalf of the State as well as the informant.

2. The present application has been filed for quashing of the impugned order dated 26.03.2025 passed in Complaint Case No. 813 of 2024 by the learned Additional Chief Judicial Magistrate-I, Nawadah, whereby cognizance of offences under Sections 323, 379 and 504 of the Indian Penal Code (for brevity



‘the IPC’) has been taken against the petitioners.

3. The prosecution case, as alleged in the complaint, is that the petitioners assaulted and abused the informant, outraged her modesty and allegedly took away her silver ornaments and cash. It is further alleged that when the informant’s husband intervened, the petitioners assaulted him with lathi and danda, causing swelling on his arm, and also assaulted her son.

4. Learned counsel for the petitioners submits that the present complaint has been lodged as a counter blast case after an unexplained delay of 15 days, which casts serious doubt on the genuineness of the complaint case.

5. Learned counsel for the petitioners further submits that the complaint petition is not supported by a duly sworn affidavit, which is in clear violation of the mandatory requirement laid down by the Hon’ble Supreme Court in the case *Priyanka Srivastava & Anr. v. State of U.P. & Ors.*, reported in **(2015) 6 SCC 287**, wherein it has been held that a complaint seeking criminal action must be accompanied by an affidavit so as to curb frivolous and vexatious litigation. In the absence of such affidavit, the complaint lacks legal sanctity and the criminal proceeding initiated thereon becomes legally



unsustainable.

6. Learned counsel for the petitioners has also placed reliance in the case of *State of Haryana v. Bhajan Lal*, reported in *1992 Supp (1) SCC 335*, contending that the present case is a example of malicious prosecution instituted with an ulterior motive, and therefore liable to be quashed.

7. It is further contended that the materials available on record do not support or corroborate the allegations made in the complaint, and no *prima facie* case is made out against the petitioners.

8. Learned counsel appearing for the State as well as the informant has supported the impugned order and opposed the prayer for quashing.

9. Having considered the submissions advanced by learned counsel for the parties and having perused the materials available on record, this Court finds that the present complaint appears to be a counter complaint, arising out of prior animosity between the parties. The delay of 15 days in lodging the complaint has not been satisfactorily explained. Further, the mandatory requirement of filing an affidavit, as laid down by the Hon'ble Supreme Court in the case of *Priyanka Srivastava (supra)*, has been completely ignored by the learned Magistrate



while taking cognizance.

10. This Court also finds that the order taking cognizance is cryptic, mechanical and non-speaking, and does not reflect proper application of judicial mind to the facts and materials on record.

11. The instance case squarely falls within the parameters laid down by the Hon’ble Supreme Court in case of *State of Haryana v. Bhajan Lal (supra)*, warranting exercise of inherent jurisdiction to prevent abuse of the process of the court and to secure the ends of justice.

12. Accordingly, the present application is allowed.

13. The impugned order dated 26.03.2025 passed in Complaint Case No. 813 of 2024 by the learned Additional Chief Judicial Magistrate–I, Nawadah, and the entire criminal proceeding arising there from, are hereby quashed.

(Rudra Prakash Mishra, J)

Raj Kishore/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.01.2026
Transmission Date	N/A

