

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51883 of 2023

Arising out of PS. Case No.-421 Year-2018 Thana- CHANPATIA District- West Champaran

1. Ravikant Mishra @ Guddu Mishra, Son of Janardan Mishra, Resident of Village - Virti Tola, Lacchu Chhapar, Ps- Chanpatia, Distt- West Champaran
2. Lalbabu Sharma, Son of Late Gangotar Rai, Resident of Village - Mehadiya , Ps- Chanpatia, Distt- West Champaran
3. Pushpa Devi, Wife of Harishankar Mishra, Resident of Village - Virti Tola, Lacchu Chhapar, PS- Chanpatia, Distt- West Champaran
4. Vicky Mishra @ Abhinav Kumar, Son of Vinod Mishra, Resident of Village - Virti Tola, Lacchu Chhapar, PS- Chanpatia, Distt- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P. N. Shahi, Sr. Advocate Mr. Rajnish Shandilya, Advocate
For the State	:	Mr. Ram Bilash Roy Raman, APP
For the Informant	:	Mr. Rajendra Narain, Sr. Advocate Mr Ram Krishna Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL JUDGMENT

Date : 13-05-2026

Heard P. N. Shahi, learned senior counsel assisted with Mr. Rajnish Shandilya, learned counsel for the petitioners, Mr. Rajendra Narain, learned senior counsel assisted with Mr. Ram Krishna Prasad, learned counsel for the informant and Mr. Ram Bilash Roy Raman, learned Additional Public Prosecutor for the State.

2. Petitioners seek quashing of the order of cognizance dated 28.04.2023 passed in connection with Chanpatia P.S. Case



No. 421 of 2018 (Tr. No. 2304 of 2022) whereby and whereunder the learned Chief Judicial Magistrate, West Champaran, Bettiah, has taken cognizance of the offence under Sections 147, 148, 149, 341, 323, 324, 325, 307, 337, 338, 504, 302 and 120(B) of IPC.

3. The allegation in the FIR is that arising out of a petty dispute, a scuffle ensued between the son of the informant and Petitioner No. 4 over the parking of a tractor loaded with soil on the road.

4. Learned senior counsel for the petitioners submits that the petitioners have come up before this court challenging the order of cognizance taken after differing with the final report submitted by the police. He further submits that Petitioner Nos. 2 and 3 are aged persons and Petitioner No. 2 namely Lalbabu Sharma was under treatment of malignancy since the year 2017 and the occurrence is of the year 2018. The documents of treatment are attached from the reputed institutions like Medanta Hospital, ILS and other hospitals. The Petitioner No. 3, Pushpa Devi is a lady. The allegation of assault against both of them is of a general and omnibus nature. Nine persons have been named in the FIR out of which seven are facing trial. The Petitioner No. 1 Ravikant Mishra @ Guddu Mishra and Pushpa Devi are members



of the same family. Lal Babu Sharma is a stranger to the family while Pushpa Devi is a member of the family.

5. A perusal of the FIR reveals that the specific allegations against Petitioner No. 2 and Petitioner No. 3 are that they were present at the scene and raised a lalkaar. No overt act of assault, no weapon attribution, and no specific role in the fatal incident is attributed to them in the FIR or the statements under Section 161 Cr.P.C. The investigation itself culminated in a final report in their favour, the investigating officer having found insufficient material against them. The learned CJM differed with the final report but the cognizance order does not assign any specific reason for doing so in respect of these two petitioners.

6. Learned senior counsel for the informant as well as learned Additional Public Prosecutor for the State has vehemently opposed the quashing of the cognizance order dated 28.04.2023.

7. Judicial notice has been taken of the fact that the witnesses or litigants in India have a tendency to false implication as well as over-implication in cases of matrimonial dispute and group violence particularly when the basis is of land dispute. This has been noticed way back by the privy council where it was held that Indian witnesses have a tendency to ornament their evidence.



8. The false implication or over-implication occurs initially in the FIR itself. It can be tested either at the stage of quashing or at the stage of trial.

9. In the case of **Pepsi Foods Ltd. and Ors v. Special Judicial Magistrate** reported in **(1998) 5 SCC 749**. The relevant paras 28 and 29 are as under:-

“28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”

10. The crux of the order is that if allegation in the complaint and the material on record do not disclose any offence or role of the accused, the High Court ought to exercise its



jurisdiction under Section 482 Cr.P.C. and Article 227 to quash the proceedings, as compelling the accused to face trial would amount to abuse of process of law. It has also been held that summoning of an accused is a serious matter and the same could not be without any reasons. This court is conscious of the fact that reasons have been assigned in the cognizance order.

11. The quashing jurisdiction which has evolved from the case of **State of Karnataka v. L Muniswamy and Ors** reported in (1977) 2 SCC 699 as well as in the case of **Md. Salib v. State of Uttar Pradesh** reported in (2023) 20 SCC 194. The relevant paragraph 8 of L Muniswamy case is as under:-

“8. Let us then turn to the facts of the case to see whether the High Court was justified in holding that the proceedings against the respondents ought to be quashed in order to prevent abuse of the process of the court and in order to secure the ends of justice. We asked the State counsel time and again to point out any data or material on the basis of which a reasonable likelihood of the respondents being convicted of any offence in connection with the attempted murder of the complainant could be predicated. A few bits here and a few bits there on which the prosecution proposes to rely are woefully inadequate for connecting the respondents with the crime, howsoever skilfully one may attempt to weave those bits into a presentable whole. There is no material on the record on which any tribunal could reasonably convict the respondents for any offence connected with the assault on the complainant. It is



undisputed that the respondents were nowhere near the scene of offence at the time of the assault. What is alleged against them is that they had conspired to commit that assault. This, we think, is one of those cases in which a charge of conspiracy is hit upon for the mere reason that evidence of direct involvement of the accused is lacking. We have been taken through the statements recorded by the police during the course of investigation and the other material. The worst that can be said against the respondents on the basis thereof is that they used to meet one another frequently after the dismissal of Accused 1 and prior to the commission of the assault on the complainant. Why they met, what they said, and whether they held any deliberations at all, are matters on which no witness has said a word. In the circumstances, it would be a sheer waste of public time and money to permit the proceedings to continue against the respondents. The High Court was therefore justified in holding that for meeting the ends of justice the proceedings against the respondents ought to be quashed.”

12. The Hon’ble Supreme Court has expanded the scope of Section 482 Cr.P.C. The relevant paragraph 26 of **Md. Salib** case is as under:-

“26. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such



circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

13. The most serious charge levelled is under Section 302 IPC. The FIR does not attribute the fatal blow or any direct act of causing the death of the deceased to Petitioner Nos. 2 and 3. In the absence of any specific act connecting them to the offence of murder, their liability, if any, can only be founded on vicarious



liability under Sections 149 or 120-B IPC. However, the formation of an unlawful assembly or criminal conspiracy requires a specific meeting of minds, and no such specific allegation of agreement or shared object is made against these two petitioners.

14. The initial idea was that if prima facie case is there the petitioner is bound to face trial. The case of Md. Salib (supra) has taken note of the case of over-implication, though not in those words, and has held that in case of a litigation, the FIR or the complaint may well have been drafted with caution and there may be allegations which may constitute prima facie offence. The court has a duty to read between the lines and see as to whether the person is to be sent to trial. No doubt there are allegations against these two petitioners but one of them is a cancer patient fighting a deadly disease and is also of advanced age. Another petitioner is a lady. The dispute is there and the backdrop seems to be a dispute between neighbours. Seven persons are facing trial. One is old and infirm and another is a lady. Their exoneration would not kill the cause of litigation and grievance of the informant.

15. Though the final report was submitted against all the four, the court is of the opinion that the allegations against Petitioner Nos. 1 and 4, namely Ravikant Mishra @ Guddu Mishra and Vicky Mishra @ Abhinav Kumar respectively, are



general and omnibus in nature; they must face trial. The issues of common intention and common object cannot be adjudicated at this stage. Accordingly, this court is not inclined to quash the proceeding against Petitioner Nos. 1 and 4, Ravikant Mishra @ Guddu Mishra and Vicky Mishra @ Abhinav Kumar respectively.

16. The distinguishing feature between the two sets of petitioners is the specificity of allegation. Petitioner Nos. 1 and 4 are the protagonists of the FIR — the genesis of the dispute is attributed to Petitioner No. 4's tractor, and Petitioner No. 1 is alleged to have led the mob. These specific roles justify their trial. No equivalent specificity exists for Petitioners Nos. 2 and 3.

17. In such view of the matter, the order of cognizance dated 28.04.2023 passed in connection with Chanpatia P.S. Case No. 421 of 2018 (Tr. No. 2304 of 2022) whereby and whereunder the learned Chief Judicial Magistrate, West Champaran, Bettiah, has taken cognizance of the offence under Sections 147, 148, 149, 341, 323, 324, 325, 307, 337, 338, 504, 302 and 120(B) of IPC is quashed so far as Petitioner Nos. 2 and 3 namely Lal Babu Sharma and Pushpa Devi respectively are concerned. Petitioner Nos. 1 and 4, Ravikant Mishra @ Guddu Mishra and Vicky Mishra @ Abhinav Kumar respectively, will face the trial.



18. Accordingly, the present petition is partly allowed.

(Ansul, J)

Vikash/-

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

