IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58098 of 2025

CNR No. BRHC010816302025

Arising Out of PS. Case No.-959 Year-2022 Thana- BAHERA District- Darbhanga

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Vijay kishore Mishra S/o Late Chandra Shekhar Mishra Resident of Village - Motipur, P.S. - Bahera, District - Darbhanga.

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Kaushal Kumar Jha, Adv.
For the Opposite Party/s : Mr. Shahabuddin Azeem @ S. Azeem, APP

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CORAM: HONOURABLE MR. JUSTICE PRAVEEN KUMAR

ORAL ORDER

2 20-11-2026 Heard learned counsel for the petitioner and learned APP for the State.

2. The instant application has been filed on behalf of the petitioner for quashing of the order dated 23.09.2024, passed by the learned Additional Chief Judicial Magistrate, 1st Benipur, by which cognizance came to be taken against the petitioner under Sections 341, 323, 324, 308, 504 and 34 of the Indian Penal Code in connection with Bahera P.S. Case No. 959 of 2022.

3. As per the prosecution case, on 05.12.2022, at around 1:30 P.M., the informant was present at his residence when all the F.I.R. named accused persons, armed with lethal

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weapons, arrived there and started abusing him. It is alleged that Ram Kishore Mishra exhorted the other accused persons to kill the informant and bury him in his courtyard. Pursuant thereto, co-accused Sundaram Kumar Mishra assaulted the informant's father on his head by means of a stick, which hit his face and resulted in the breaking of his upper tooth, causing him to fall on the ground. When the informant and his mother intervened to rescue his father, Ram Kishore Mishra again exhorted the accused persons to outrage the modesty of the informant's mother. Thereafter, co-accused Vijay Kishore Mishra allegedly caught hold of her hair with an intent to outrage her modesty and threw her to the ground.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case. It has further been submitted that, in respect of the same occurrence, an earlier case, being Bahera P.S. Case No. 776 of 2022, was instituted for the offences punishable under Sections 307, 354, 379, 341, 323, 427 and 34 of the Indian Penal Code. It has further been submitted that, in order to create a defence, the present case came to be lodged after a delay of 18 days from the alleged occurrence, alleging commission of offences punishable under Sections 354(B),

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379, 341 and other bailable sections of the Indian Penal Code. Moreover, it has been submitted that there is an ongoing land dispute between the parties, who are descendants of a common ancestor. The present F.I.R. is, therefore, nothing but a retaliatory counterblast to the earlier case and is vexatious and malicious in nature.

5. Learned A.P.P. for the State has vehemently opposed the prayer of the petitioner.

6. Heard the parties and perused the records.

7. The petitioner has assailed the order taking cognizance. The submission advanced on behalf of the petitioner that the present F.I.R. is a retaliatory counterblast to the earlier case is a matter which can be considered at the appropriate stage of the proceedings. So far as the impugned order taking cognizance is concerned, it appears that cognizance has been taken for the offences punishable under Sections 308, 341 and other ancillary sections of the Indian Penal Code. The cause of the alleged occurrence is stated to be a proceeding under Section 144 of the Cr.P.C. pending against the petitioner before the learned Sub-Divisional Officer, Benipur.

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8. In view of the aforesaid facts and circumstances, at this stage, I am not inclined to interfere with the impugned order.

9. Accordingly, the application stands dismissed.

(Praveen Kumar, J)

Ankit Kumar/-

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