

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72033 of 2024

Arising Out of PS. Case No.-2410 Year-2023 Thana- SARAN COMPLAINT CASE District-
Saran

-
1. Dev Kumar Mishra Son of Sri Kapil Dev Mishra Village- Mohabbat Parsha, Ps- Rivilganj, Dist- Saran at Chhapra Patna, Bihar.
 2. Nitesh Mishra @ Rajesh Mishra son of Sri Dev Kumar Mishra Village- Mohabbat Parsha, Ps- Rivilganj, Dist- Saran at Chhapra Patna, Bihar.
 3. Risabh Mishra @ Rishyap Ritesh Son of Dev Kumar Mishra Village- Mohabbat Parsha, Ps- Rivilganj, Dist- Saran at Chhapra Patna Bihar.
 4. Shailesh Mishra @ Anish Kumar son of Sri Dev Kumar Mishra Village- Mohabbat Parsha, Ps- Rivilganj, Dist- Saran at Chhapra Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chaturbhuj Mishra son of Late Tuntun Mishra Village- Mohabbat Parsha, Ps- Rivilganj, Dist- Saran at Chhapra Patna, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Pravashankar Mishra, Advocate
For O.P. No.2	:	Mr.Binod Murari Mishra, Advocate
For the State	:	Mr.Manoj Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL JUDGMENT

Date : 08-01-2026

Heard learned counsel for the petitioners, learned counsel for the O.P. No.2 and learned counsel appearing on behalf of the State.

2. The present application has been preferred for quashing the order of cognizance dated 08.05.2024, passed by the learned Judicial Magistrate, First Class, Saran at Chapra, in Complaint Case No. 2410 of 2023, whereby cognizance has been taken against the petitioners for the offences punishable under Sections 323, 341, 379, 504 and 34 of the Indian Penal Code.



3. The prosecution case, as alleged in the complaint, is that on 13.06.2023 while complainant was ploughing his ancestral field, in the meantime, all of sudden petitioners allegedly arrived, armed with lathi and danda and started assaulting the complainant and snatched his gold locket. It is further alleged that the complainant was saved by the arrival of witnesses and thereafter took treatment at the Primary Hospital Revelganj. It is also alleged that the police refused to register his case, compelling him to file the present complaint.

4. Learned counsel for the Petitioners submits that the present complaint case has been instituted with *mala fide* intention and is a misuse of the criminal process. It is contended that the complaint is not supported by a duly sworn affidavit, as mandatorily required under the law laid down by the Hon'ble Supreme Court in the case of ***Priyanka Srivastava & Anr. v. State of U.P. & Ors.***, reported in (2015) 6 SCC 287, which was prescribed to prevent abuse of the criminal machinery. It is, therefore, submitted that in absence of such affidavit and proper verification, the initiation and continuation of the criminal proceeding against the petitioners is unsustainable in law.

5. Learned counsel for the Petitioners further submits that though the complainant is alleged to have received



medical treatment at a Primary Hospital, but no medical report, injury certificate or any documentary material evidence has been brought on record to substantiate such allegation, which according to learned counsel, falsifies the prosecution version and undermines the credibility of the present case.

6. It is further submitted that the assertion of the complainant regarding having approached the police authorities for registration of the information is not supported by any documentary material, such as a written complaint or acknowledgment. In absence of any such supporting material, the said allegation remains unsubstantiated.

7. It is, therefore, finally contended that the learned Magistrate has mechanically taken cognizance without examining whether the basic ingredients of the alleged offences are *prima facie* made out and without scrutinizing the absence of supporting material, thereby resulting in abuse of the process of the Court.

8. Learned counsel for the complainant and the State supported the impugned order and submitted that a *prima facie* case is made out against the petitioners and, therefore, this Court shall not interfere in the order of cognizance.

9. Having heard the submissions of the learned



counsel for the parties and upon perusal of the materials on record, it appears that the complainant has alleged assault and has further stated that he received medical treatment at a Primary Health Centre. However, despite such allegation, no medical report, injury certificate or any contemporaneous documentary evidence has been brought on record to substantiate the claim of injuries or treatment. In the facts of the present case, the absence of any medical corroboration materially weakens the allegation of assault and creates serious doubt regarding the prosecution version at the stage of taking cognizance.

10. This Court further finds that the complaint is neither supported by a duly sworn affidavit nor there is any material to indicate due compliance of the procedural safeguards meant to regulate invocation of the criminal process. The aforesaid omission is not in conformity with the principles laid down by the Hon'ble Supreme Court in the case of ***Priyanka Srivastava & Anr. v. State of U.P. & Ors.***, reported in ***(2015) 6 SCC 287***, which requires strict adherence to verification requirements to prevent abuse of the criminal machinery.

11. This Court is also guided by the principles enunciated by the Hon'ble Supreme Court in ***State of Haryana***



v. *Bhajan Lal*, reported in *1992 Supp (1) SCC 335*, wherein the categories of cases warranting exercise of inherent jurisdiction have been delineated, including cases where the allegations do not disclose the commission of any offence or where the proceedings are manifestly attended with *mala fide* intention.

12. The learned Magistrate, while passing the impugned order, has not adverted to the absence of medical corroboration or the lack of proper verification and has taken cognizance without application of judicial mind.

13. In view of the aforesaid facts and circumstances, this Court is of the considered opinion that continuation of the criminal proceeding against the petitioners would amount to abuse of the process of Court.

14. Accordingly, the present Cr. Miscellaneous is allowed. The order dated 08.05.2024 passed by the learned Judicial Magistrate First Class, Saran at Chapra, in Complaint Case No. 2410 of 2023, taking cognizance of the offences against the petitioners, is hereby quashed.

(Rudra Prakash Mishra, J)

manish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.01.2026
Transmission Date	20.01.2026

