

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78278 of 2024

Arising Out of PS. Case No.-138 Year-2021 Thana- DAUDNAGAR District- Aurangabad

Kumar Shivam Shekhar @ Shivam Shekhar son of Late Sunil Paswan
Resident of Village- New Area Maulabag PO -Daudnagar PS- Daudnagar
District -Aurangabad Bihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Renu Lata W/o Vijay Kumar Prasad, R/o Mohalla-New Area, Maulabag,
Ward No.25,P.O and P.S.-Daudnagar, District-Aurangabad.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Muskan Singh, Advocate
For the Opposite Party/s	:	Mr. Ramesh Chandra, APP
For the O.P. No. 2	:	Mr. Mayank Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL JUDGMENT

Date : 08-01-2026

Heard learned counsel for the petitioner and

learned counsel appearing on behalf of the State as well as the

informant.

2. That the present quashing application has

been filed for the following reliefs:—

i. For quashing the order of cognizance

dated 11.07.2024 passed by the Special Judge, Excise,

Aurangabad, arising out of Daudnagar P.S. Case No. 138 of

2021, by which cognizance has been taken for the offences

under Sections 452, 341, 323, 504, 354, 379/34 of the Indian

Penal Code and Section 37 of the Bihar Prohibition and Excise

Act, 2016, against the petitioner.



ii. Also for quashing the charge sheet vide No. 504 of 2023 submitted by the investigating officer.

3. Prosecution story is that, on 25.03.2021 at about 10:30 P.M at night, the informant was present at her house when the accused persons, arrived there and abused her in obscene and filthy language. It is alleged that the accused persons thereafter assaulted the informant, causing her physical injuries, and also criminally intimidated her with dire consequences. The prosecution further alleges that during the said occurrence, the accused persons removed articles/cash belonging to the informant.

4. Learned counsel appearing on behalf of petitioner submitted that this case is filed due to animosity between the parties and they are agnates and related to each other. Learned counsel for the petitioner further submitted that during investigation none of the witnesses have supported or corroborated the prosecution case, yet the investigating agency mechanically submitted the charge sheet and the learned court below took cognizance without application of judicial mind.

5. Learned counsel for the petitioner further relied on the judgment of the ***Hon'ble Supreme Court in S. N. Vijayalakshmi & Ors. Vs. State of Karnataka & Anr., 2025***



Live Law (SC) 758, wherein it has been held that criminal proceedings deserve to be quashed when the dispute is predominantly civil in nature and the element of criminality is absent.

6. Learned counsel appearing on behalf of the State and learned counsel for the informant have vehemently opposed the prayer for quashing and supported the impugned order of cognizance.

7. Learned counsel for the informant submitted that the materials collected during investigation clearly establish the presence and active participation of the petitioner at the place of occurrence. The FIR contains specific and categorical allegations that the petitioner was not a mere bystander but was very much present at the spot and had acted in concert with the co-accused persons in furtherance of their common intention. It was further contended that the role attributed to the petitioner is specific and overt, and not omnibus in nature. The allegation regarding his presence at the place of occurrence, coupled with his participation in the incident, *prima facie* satisfies the essential ingredients of the offences alleged.

8. This Court has carefully considered the rival submissions and perused the materials available on record



9. *The Hon'ble Supreme Court in Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra, (2021) 6 SCC 821*, has authoritatively held that while exercising inherent jurisdiction, the High Court must proceed on the assumption that the allegations made in the FIR are true and should not conduct a mini-trial or evaluate the probative value of the evidence.

10. In the present case, a plain reading of the FIR and the materials collected during investigation clearly disclose specific allegations of house trespass, assault, criminal intimidation, and theft, which *prima facie* attract the offences alleged. The presence of the petitioner at the place of occurrence and his alleged participation has been specifically asserted.

11. The contention that the dispute is civil in nature cannot, by itself, be a ground for quashing the criminal proceeding. It is well settled that civil liability and criminal culpability may coexist. *In Indian Oil Corporation vs. NEPC India Ltd., (2006) 6 SCC 736*, the Hon'ble Supreme Court has held that merely because a dispute has a civil flavor does not mean that criminal proceedings should be interdicted if the allegations disclose the ingredients of a criminal offence.

12. This Court further finds that the reliance



placed upon *S. N. Vijayalakshmi (supra)* is misplaced. The said judgment applies to cases where the criminal proceedings are found to be purely civil in disguise and bereft of any criminal intent. In the present case, however, the allegations disclose overt acts, use of criminal force, and removal of property, which cannot be said to be devoid of criminality at this stage.

13. The parameters for quashing criminal proceedings, as laid down in *State of Haryana vs. Bhajan Lal, 1992 Supp (1) SCC 335*, are well settled. This Court finds that the present case does not fall within any of the exceptional categories enumerated therein, as the FIR and charge-sheet do disclose the commission of cognizable offences and the proceedings cannot be said to be manifestly *mala fide* or an abuse of the process of law.

14. This Court also finds that in the submission advanced on behalf of the State and the informant that the petitioner was not a distant or incidental figure but was specifically named as being present at the place of occurrence and having actively participated in the alleged incident. The FIR attributes a clear and direct role to the petitioner, and the case diary materials *prima facie* support the assertion of his presence at the spot. At this stage, the Court cannot accept the plea of



false implication or absence of the petitioner.

15. It is also a settled principle that at the stage of cognizance, the Magistrate is only required to ascertain whether sufficient ground exists for proceeding and not whether the case will ultimately result in conviction. This Court does not find any perversity, patent illegality, or non-application of mind in the impugned order warranting interference.

16. In view of the aforesaid discussions and settled legal principles, this Court is of the considered opinion that the present application is premature and devoid of merit.

17. Accordingly, the application is dismissed.

(Rudra Prakash Mishra, J)

Rajorshi/-

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