

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79424 of 2023

Arising Out of PS. Case No.-254 Year-2022 Thana- MALSALAMI District- Patna

1. Ashok Yadav @ Ashok Kumar Son Of Vindeshwar Rai R/O Village- Rikabganj, P.S.- Malsalami, Dist.- Patna
2. Vishal Rai @ Vishal Kumar @ Vikas Kumar Son Of Munakka Rai @ Ajay Kumar Singh R/O Village- Rikabganj, P.S.- Malsalami, Dist.- Patna
3. Devendar Rai @ Devendar Singh @ Devendra Singh Son Of Ishwardhari Rai R/O Village- Rikabganj, P.S.- Malsalami, Dist.- Patna
4. Kanchan Kumar Son Of Devendar Rai @ Devendar Singh @ Devendra Singh R/O Village- Rikabganj, P.S.- Malsalami, Dist.- Patna
5. Sumit Kumar Son Of Munakka Rai @ Ajay Kumar Singh R/O Village- Rikabganj, P.S.- Malsalami, Dist.- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ajit kumar son of wakil rai r/o village- rikabganj, p.s.- Malsalami, dist.- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha, Advocate
For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, A.P.P

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

2 03-02-2026 Heard the learned counsel for the petitioner and the learned A.P.P. for the State.

2. The present application has been filed for quashing of the order dated 05.06.2023 passed by the court of Additional Chief Judicial Magistrate, Patna City, Patna in connection with Malsalami P.S. Case No. 254 of 2022 whereby the learned Jurisdictional Magistrate was pleased to taking cognizance and issue process against the petitioners and others under Sections 147, 148, 149, 341, 323, 307, 504, 506, 120B of the IPC and section 27 of the Arms Act.



3. The short facts of the case is that about twenty one named accused persons along with others came variously armed and attacked the uncle of the informant and also other persons who intervened causing injuries to them.

4. Learned counsel for the petitioners has submitted that so far as these petitioners are concerned their names do not figure in the First Information Report except petitioner no. 3. It is further submitted that while the charge of conspiracy has been attributed to petitioner no. 3, as would be evident from the First Information Report itself, the other petitioners have subsequently also been stated to be members of the mob and these petitioners, who happen to be the *gotias* and also next door neighbours, have falsely been implicated in the present case due to oblique motives. It has also been submitted that since the mother of the accused nos. 3, 4 and 15 of the F.I.R. had also filed a complaint case bearing Complaint Case No. 535 of 2022 in the Court of A.C.J.M Patna city against the present informant and it is on such grounds that the ground of malicious prosecution has also been urged. Petitioner nos. 2, 4 and 5 are also stated to be young students who have nothing to do either in the act or in the conspiracy angle.

5. Learned A.P.P. for the state opposes the present application on the ground that after investigation charge sheet has been submitted against these petitioners also whereafter the impugned order taking cognizance has been passed.



6. Taking the rival contention into consideration, this Court is of the opinion that so far as petitioner no. 3 is concerned his name has already featured in the first information report as the main conspirator and with regard to other petitioners also on account of some materials collected during the course of investigation, charge sheet was submitted and the order dated 05.06.2023 was passed taking cognizance and issuing summons against them. Upon perusal of the order taking cognizance, it appears that there is no illegality in the same and as such the court finds no sufficient ground which would warrant any interference with the said order. As such, the present application is dismissed. However, it goes without saying that the petitioners would always have the liberty to raise all the arguments at the appropriate stage of charge which shall be considered in accordance with law.

7. Accordingly, the present application is dismissed.

(Soni Shrivastava, J)

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