

SC 21/2025
STATE Vs. LALIT
FIR No. 390/2023
PS Dayal Pur

28.07.2026

Present: Sh. Sunit Dutt, Ld. Subst. Addl. PP for the State.
All the accused in person.
Sh. Siddhart with Sh. Sandeep, Ld. counsel for all the accused.
Complainant with Sh. K.P. Singh with Ms. Sheetal Gupta, Ld. counsel.

1. It is submitted by Ld. Counsel for the accused that protest petition is pending, same is confirmed by Ld. Counsel for the complainant. Hence, arguments are heard on protest petition.

2. It is submitted by Ld. Counsel for the complainant that in the present case, though it is correct that all the complainants suffered simple injuries but they are on vital parts of the body. It is further submitted that in the cross FIR, section 308 IPC was invoked despite the fact that all the injuries were simple as well. Further, he has filed photographs of the injuries suffered by complainant in this case. It is submitted that all the persons involved in the commission of crime have not been implicated by IO in this case, further, they could be seen in the CCTV footage played in the Court. Hence the number of accused persons have been added in their protest petition. Further, CCTV footage has not been sent to FSL in this case while it was sent in cross FIR.

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3. On the other hand, Ld. Counsel for the accused submits protest petition is not maintainable. Ld. Counsel also places reliance on a judgment i.e. Ramakant Singh and Ors. Vs. The State of Jharkhand and Anr. (2024) 1 CriLR 27 (SLP(Criminal) No. 9228 of 2023 dt. 07.11.2023).

4. It is further submitted that once cognizance is taken, the protest petition does not lie. It is further submitted that perusal of the CCTV footage would show that the present complainants are the real aggressors and the accused persons herein are actually the victims. Further, the family of accused persons only retaliated in defence and were not the aggressors. It is further submitted that even after the *Jhagda* was over, the complainants were still willing to continue the same as is evident from CCTV footage. Further, all the complainants have received simple injuries.

5. On the other hand, Ld. Counsel for the complainants submits that submissions made by ld. Counsel for the accused persons are matter of trial.

6. This Court has heard the submissions from both the sides and gone through the record.

7. Cognizance in the present case was taken on 21.08.2023 and protest petition was filed on 29.10.2024. Perusal of prayer clause of protest petition would show that a direction is sought for further investigation, a direction is sought to SHO to add

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section 308 / 201 IPC in the present FIR, direct the concerned IO to implead the name of other accused persons in the charge sheet besides further directions.

8. It was held by Hon'ble Supreme Court in the case of Ramakant Singh and Ors. Vs. The State of Jharkhand and Anr. (2024) 1 CriLR 27 (SLP(Criminal) No. 9228 of 2023 dt. 07.11.2023) that:

“10. We have perused the order dated 9th April, 2009. The order was passed on the charge-sheet dated 31st March, 2009 filed by the CID. The order takes cognizance only as against Gupteshwar Singh. Surprisingly, a protest petition against the said order was entertained by the learned Chief Judicial Magistrate and he proceeded to pass the impugned order on 3rd November, 2009 taking cognizance against the present appellants. Such a course was not permissible as it was not open for the learned Chief Judicial Magistrate to entertain a protest petition against his earlier order of taking cognizance. The order dated 3rd November, 2009, amounts to modification of the earlier order dated 9th April, 2009, which was not permissible as there is no power conferred on the learned Judicial Magistrate to modify earlier order of taking cognizance.

11. These legal aspects have been clearly overlooked by the High Court. By referring to the decision of this Court in the case of Nupur Talwar (supra), the High Court observed that it is well- settled that once protest petition is filed, depending upon the facts of the case, the Court can proceed on the basis of that protest petition and follow the procedure prescribed under

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Sections 200 and 202 of the CrPC. In this case, the Court was dealing with a completely different case where protest petition was filed against an order taking cognizance.”

9. In the present case, once the Magistrate has passed the order taking cognizance, subsequent filing of protest petition whereby seeking directions for impleading more accused or to add more sections would amount to Magistrate reviewing its own order. In view of the observations in Ramakant Singh and Ors. Vs. The State of Jharkhand and Anr., the present protest petition is not maintainable. Same is hereby **dismissed**.

10. Put up for arguments on charge on 19.08.2026.

(Twinkle Wadhwa)
ASJ-02(NE)/ KKD/Delhi
28.07.2026/nk