



2026:CGHC:21556-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 1279 of 2026

- 1** - Siddique Khan S/o Late Shri Khalil Ahmad Aged About 54 Years R/o Village Ranka, P.S. Bemetara, District Bemetara Chhattisgarh
2 - Ajitabh Mishra S/o Late S.K. Mishra Aged About 55 Years R/o Village Basani, Post - Mataka, District Bemetara Chhattisgarh.

... Petitioner(s)

versus

- 1** - State of Chhattisgarh Through Station House Officer, Police Station Bemetara, District Bemetara Chhattisgarh
2 - Parmanand Banjare Presently Posted As Tahsildar And Executive Magistrate, Bemetara, District Bemetara Chhattisgarh

... Respondent(s)

For Petitioner	:	Shri S.C. Verma, Sr. Advocate along with Shri Manharan Sahu and Mohd. Nageeb, Advocates.
For State	:	Ms. Vaishali Mahilong, Dy. Govt. Advocate.

Hon'ble Shri Justice Ramesh Sinha, CJ

Hon'ble Shri Justice Ravindra Kumar Agrawal, J

Order on Board

08.05.2026

Per, Ramesh Sinha, CJ.

- 1.** The present petition under Section 528 of BNSS, 2023 has been filed by the petitioners seeking quashment of FIR No.557/2024, Registered at Police Station Bemetara as also for quashing the entire criminal

proceeding in Criminal Case No.26/2025 pending against the petitioners for the offence under Sections 126(1),221,223 and 3(5) of BNS, 2023.

2. The allegation against the present petitioners that, on 25.10.2024 they led a crowd of many people to protest near Collectorate at Bemetara and the office of Superintendent of Police. It is alleged that the said assembly was gathered without prior permission or giving any intimation to the authorities and such the said gathering resulted into blockage of Bemetara-Simga main road and caused obstruction to public servants and general citizens. The Tehsildar Bemetara made a written complaint against the petitioners on the same day to Station House Officer, PS Bemetara alleging violation of prohibitory order of District Magistrate passed under Section 163 of BNSS, on the basis of which, an FIR being No.557/2024 for the offences mentioned above, was lodged against the petitioners on the same day i.e. 25.10.2024 and petitioners were arrested on 26.10.2024 and 30.12.2024 and released on the same day. On 31.12.2024 the police filed charge sheet (final report) being No.614 of 2024 before Chief Judicial Magistrate, Bemetara and on 06.01.2025 to Chief Judicial Magistrate, Bemetara took cognizance of the matter and initiated trial against them in Criminal Case No.26 of 2025 in which charges have been framed on 13.04.2026 for the offence under Sections 126(1),221,223 and 3(5) of BNS, 2023 and matter has been fixed on 06.06.2026 for recording evidence of prosecution witnesses. Hence this petition seeking relief to quash FIR and entire criminal proceeding against the petitioners.

3. Learned counsel for the petitioners would submit that the proposed gathering scheduled on 25.10.2024 was made at the instance of villagers of Patharra, Bemetara to protest against Ethanol Plant, intimation of which was duly made by the village Sarpanch to SDO Revenue on 23.10.2024 which was duly received by him however no steps were taken by him. The order passed under Section 163 of BNSS is ex facie illegal as it was signed on 27.10.2024 but given retrospective effect from 23.10.2024 to cover the date of incident i.e. 25.10.2024. The entire charge sheet is based on the complaint made by the competent authority i.e. Tehsildar which lacks material evidence or independent witness attributing involvement of the petitioners. Around 400 people were gathered however charge sheet has been filed only against these two petitioners. Thus, FIR and entire criminal proceeding pending against the petitioners be quashed.
4. On the other hand, the counsel for the State opposes the submissions made by the counsel for the petitioners and submits that on the report made by the Executive Magistrate and after due investigation charge sheet has been filed and the trial court has taken cognizance of the offence where proceeding of criminal case is going on. She would also submit that the grounds raised by the petitioners for quashing FIR as well as charge sheet cannot be decided without recording evidence of the parties. The allegation against the petitioners is the matter of evidence which is to be led during trial of the court. At this stage it cannot be said that there is no prima facie evidence against the petitioners that no offence has been committed by them.

5. We have heard the counsel for the parties and perused the material annexed with the petition.
6. From perusal of FIR lodged on the basis of complaint by the Tehsildar, Bemetara, it appears that gathering of 400 villagers of village Patharra led by the petitioners, made protest before Collectorate, Bemetara, without prior permission of the competent authority and caused obstruction to public servants and general citizens. Though intimation with regard to gathering is alleged to have been made by the village Sarpanch, however, the petitioners are silent on the aspect as to whether they were permitted for the same or not ? An Executive Magistrate, acting under their authority to maintain public order and tranquility, can initiate legal proceedings against protestors, particularly when demonstrations turn violent or violate established regulations. In the present case also the Executive Magistrate reported the offense and thereafter police registered an FIR based on complaint. Contents of FIR disclose that petitioners were the key persons who led protest and therefore only they are being prosecuted amongst 400 protesters. This court, at this stage, cannot look into the gravity of the offence and role played by the petitioners. All these are matter of investigation which needs proper evidence.
7. So far as the law under Section 528 BNS is concerned, it is by now a well settled proposition, that while considering the case for quashing of the Criminal proceedings the court should not “kill a stillborn child” and appropriate prosecution should not be stifled unless there a compelling circumstances to do so. An investigation should not be shut out at the threshold if the allegation have some substance. When a prosecution

at the initial stage is to be quashed, the test to be applied by the Court is whether the uncontroverted allegation as made, prima facie establish the offence. At this stage neither can the Court embark upon an inquiry, whether the allegations in the complaint are likely to be established by evidence nor should the court judge the probability, reliability or genuineness of the allegations made therein.

8. Accordingly, we do not find any scope for interference in the present petition. The same deserves to be and is hereby dismissed.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

inder