

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9469 of 2019

Arising Out of PS. Case No.-54 Year-2017 Thana- GAUTAMBUDHNAGAR District- Siwan

1. Premchand Tiwari S/o Late Bharat Tiwari Resident of Village-Bangra Srikant, P.S.- G.B. Nagar (Tarwara), District - Siwan
2. Ajay Tiwari S/o Premchand Tiwari Resident of Village-Bangra Srikant, P.S.- G.B. Nagar (Tarwara), District - Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ishwar Tiwari S/o Late Raj Rikh Tiwari R/o vill-Bangra shreekant, P.S.- G.B. Nagar, Distt- Siwan(Bihar). Pin-841506

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Aslam Ansari, Advocate

For the Opposite Party/s : Mr. Brajendra Nath Pandey, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 14-10-2025 Heard Mr. Md. Aslam Ansari, learned counsel appearing on behalf of the petitioners and Mr. Brajendra Nath Pandey, learned APP for the State.

2. The present application has been filed for quashing the order dated 11.07.2018 passed by learned Chief Judicial Magistrate, Siwan arising out of G.B. Nagar P.S. Case No.54 of 2017, by which cognizance of the offences has been taken under Sections 147, 149, 341, 323, 324, 379 and 504 of the Indian Penal Code against the petitioners.



3. Learned counsel appearing on behalf of the petitioners, without going into the merits of the case, informs that the petitioners and informant are *agnates* and due to land dispute an altercation took place between the parties, for which the present FIR has been lodged. Considering the fight between the parties, who are agnates, the matter can be settled amicably.

4. Learned APP for the State submitted that the matter shall be settled amicably outside the Court.

5. Heard the parties.

6. The parties are agnates and the present dispute arises due to previous land dispute between the parties leading to lodging of FIR under Section 307 and 379 also for which the Learned District Court has taken cognizance but the parties have decided to put an end to the dispute by amicable settlement. In this regard, I find it apt to refer the law laid down by the Apex Court in the case of ***Naushey Ali & Ors. Vs. State of Uttar Pradesh & Anr.*** reported in ***(2025) 4 SCC 78.*** in para-11 to 20, which is reproduced hereinafter:

“11. Before we apply this judgment to the facts, it will be worthwhile to recall the observations of Sikri, J. in Narinder Singh (supra):-

"26. Having said so, we would hasten to add that though it is a serious offence as the accused person(s) attempted to take the life of another person/victim, at the same time the court cannot be oblivious to hard realities that many times whenever there is a quarrel between the parties leading to



physical commotion and sustaining of injury by either or both the parties, there is a tendency to give it a slant of an offence under Section 307 IPC as well..."

12. Coming back to **Laxmi Narayan (supra)**, this Court has held that mere mention of Section 307 IPC in the FIR or the charge-sheet should not be the basis for adopting a hands-off approach. It has further held that it would be open for the court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or whether there is evidence to back it. It has been held that the courts may go by the nature of injuries sustained; as to whether the injuries are inflicted on the vital/ delicate parts of the body and the nature of weapon used. It has also been clarified that such an exercise would be permissible after investigation and filing of chargesheet/framing of charges or during the trial. [See 15.4 of **Laxmi Narayan (supra)**].

13. Coming to the facts of the case, admittedly, there is a settlement between the parties. The case filed by the appellants' party which was prior in point of time and that too on the same day of occurrence, has been settled.

14. It should be recalled that, at the outset, after investigation, the police actually closed the case in its final report of 07.09.1991. It was the trial Court, which by its order of 05.09.1992, refused to accept the same and summoned the appellants. The incident is of 11.08.1991, i.e. about 33½ years back. No doubt, there is a reference to the firing in the FIR but admittedly there was no injury. The allegation is that firing was done by Abdul Waris. He is since deceased. The facts, assuming to be true, also do not make out a case of common object for the appellants under Section 149 IPC insofar as the offence of Section 307 is concerned.

15. The role attributed to the seven members, including the five appellants is not specific. General allegation was that they abused in filthy language and assaulted Mahmood with lathi and iron bars. The specific individual role was only attributed to Adbul Waris, who is since deceased.

16. In any event, the police who investigated disbelieved the entire story. No recoveries have been made of any pellets. What engaged the attention of the High Court was only the fracture of the head of the distal phalanx of left finger of respondent No.2.

17. We have seen the injuries sustained by Mahmood (R-2) from the medical evidence collected. From the injury report, it is clear that while the first four injuries were contusions and abrasions, injury Nos. 5, 6 and 7 pertained to incised lacerated wound and swelling on the middle finger of the left hand. We have also seen the x-ray report which shows



that in the left hand there was a fracture of the head of distal phalanx of left ring finger. Assuming that this was the result of injury with lathis or iron bar, applying the test in Laxmi Narayan (supra), considering the injury and the nature of the weapon used, certainly no offence under Section 307 IPC is made out.

18. Section 307 of IPC reads as under:-

"307. Attempt to murder.-

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

Attempts by life convicts.- When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death."

19. Keeping in mind the surrounding circumstances, the nature of the weapon and the nature of the injury, on facts, we are inclined to conclude that the overt act attributed to the appellants does not bring the case within the four corners of the Section 307 of IPC, either on a stand-alone basis or as held above with the aid of Section 149 of IPC.

20. We are also inclined to conclude that considering the overall circumstances, the nature of the weapon and the nature of the injury (fracture of the head of distal phalanx of left ring finger), the offence alleged, on facts, does not fall in that category of cases where the court should deny relief in the event of a settlement. At the highest, the offence alleged could be one under Section 326 of IPC. It could not be said, on facts, considering all the circumstances that this is a crime which has such a harmful effect on the public and that it has the effect of seriously threatening the well-being of the society. We make it clear that we are saying so on the facts of the present case. We are also firmly of the opinion that proceeding with the trial, when parties have amicably resolved the dispute in the present case, would be futile and the ends of justice require that the settlement be given effect to by quashing the proceedings. It would be a grave abuse of process to let this trial remain pending under the above circumstances, particularly when the dispute is settled and resolved."

7. The petitioners are directed to appear before the



learned District Court on 27.11.2025 at 10:30 AM.

8. Learned District Court is directed to take necessary steps to refer the matter before the learned Mediator of the District Mediation Center.

9. Learned Mediator of the District Mediation Center concerned shall make his/her best efforts to settle the dispute between the parties amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of four months, till then, no coercive action shall be taken against the petitioners in connection with the aforesaid case.

10. In case, the parties resolve their dispute amicably, then the proceeding is required to be dropped in light of the law laid down by the Apex Court as referred hereinabove.

11. In case of failure on the part of the petitioners to appear on 27.11.2025 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioners shall automatically lose its force.

12. In case, it is deliberate on the part of the Petitioners and he fails to reconcile, then in that case, the learned District Court shall proceed with the trial. However, if the O P No. 2 fails to cooperate into mediation or arrive at



amicable settlement, then the petitioners are directed to be released on pre-arrest bail on such terms and conditions as the learned District Court deems it fit and proper.

13. Accordingly, the present quashing application stands disposed of.

(Purnendu Singh, J)

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