

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23922 of 2024

Arising Out of PS. Case No.-1069 Year-2023 Thana- DANAPUR District- Patna

1. Nutan Devi W/o Ravi Kumar @ Raj Vanshi Kumar R/o Mohalla - Saguna Naya Tola, Near Matth, P.S. - Danapur. Dist. - Patna
2. Priyanka Devi W/o Raj Balabh Ray R/o Mohalla - Saguna Naya Tola, Near Matth, P.S. - Danapur. Dist. - Patna
3. Pinky Devi W/o Pramod Kumar R/o Mohalla - Saguna Naya Tola, Near Matth, P.S. - Danapur. Dist. - Patna
4. Raj Nandani Devi @ Raj Nandani W/o Ravindra Kumar R/o Mohalla - Saguna Naya Tola, Near Matth, P.S. - Danapur. Dist. - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kamlesh Kumar, Advocate
Ms. Kahkashan Alam, Advocate
Ms. Akanksha Verma, Advocate
For the Opposite Party/s : Mr. Ajit Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 09-12-2025

Heard learned counsel appearing on behalf of the
petitioners and learned APP for the State.

2. The petitioners have preferred application under Section 482 of Cr.P.C. for quashing the order taking cognizance dated 10.01.2024 passed by the learned A.C.J.M.-1st, Danapur in connection with Danapur P.S. Case No. 1069 of 2023, by which learned A.C.J.M.-1st, Danapur has taken cognizance of offence



under Sections 147, 148, 149, 341, 323, 325 and 307 of the Indian Penal Code.

3. As per the allegation made in the FIR, petitioner along with other accused persons, had assaulted the informant causing injuries. Specific allegation against petitioners is that they had pelted stone and bricks from the rooftop, upon the informant.

4. Learned counsel appearing on behalf of the petitioners submitted that petitioners and informant side are agnates and due to enmity with respect to the share in mall and shop, the ugly incidence took place, in which, both the parties indulged in free fight causing injury to either side. He further submitted that from very perusal of the FIR, it is evident that general and omnibus allegation has been levelled against the petitioner, who are female members of the same family and no case is made out against them and if they are allowed to face prosecution, the same will be abuse of process of law. In support of his argument, learned counsel has relied upon paragraph no. 102 (2) of the judgment passed by the Apex Court in the case of ***The State of Haryana vs. Bhajan Lal*** reported in ***(1992) Supp 1 SCC 335***.

5. *Per contra*, learned A.P.P. appearing on behalf of



the State submitted that there is no infirmity in the order taking cognizance against the petitioners, who were active member of the mob and they, with a common intention to cause injury, had given effect to the incidence, in which, several persons including the informant sustained grievous injury. The cognizance has been taken on the basis of materials, which have come in course of investigation and interfering with the trial at this stage is unwarranted.

6. Heard the parties.

7. Having considered the rival submissions made on behalf of the parties, as well as, having perused the allegation contained in the FIR, I find that specific allegation has been made against other family members of the petitioners but the allegation against these petitioners is that they together, had started pelting stone on the informant and his family members causing injury to them. In absence of any specific allegation against the petitioners, I don't find that any case under Sections 147, 148, 149, 341, 323, 325 and 307 of the Indian Penal Code is made out. At the same time, in absence of cognizance having been taken under Section 324, it cannot be said that there was common intention to kill the informant to attract the allegation under Section 307.



8. In this regard, I find it apt to take note of the observation made by the Apex Court recently in case of **Naushey Ali & Ors. Vs. State of Uttar Pradesh & Anr.** reported in **(2025) 4 SCC 78** in para-11 to 20, which are 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..."

(Emphasis supplied)

*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 Abdul 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 an 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."

9. Turning to the facts of the instant case and keeping in view the contents of the FIR, the allegation leveled against the petitioners are general and omnibus in nature, and considering the fact that 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, the order taking



cognizance in connection with Danapur P.S. Case No. 1069 of 2023, is hereby *quashed* and *set-aside* to the extent it relates to the petitioners.

10. However, this Court making an observation that the parties, who are family members, shall not indulged into frivoulous litigation to harass each other.

11. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	13.12.2025
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