

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.232 of 2024

Arising Out of PS. Case No.-556 Year-2011 Thana- NALANDA COMPLAINT CASE
District- Nalanda

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1. Rajballabh Prasad Son Of Late Yadunandan Prasad Resident Of Village-
Haundaari, Po- Mohiniuddinpur Bansbigaha, Ps- Chiksaura, Sub-Division-
Hilsa, Dist- Nalanda Bihar
 2. Mithlesh Prasad Son Of Shree Rajballabh Prasad Resident Of Village-
Haundaari, Po- Mohiniuddinpur Bansbigaha, Ps- Chiksaura, Sub-Division-
Hilsa, Dist- Nalanda Bihar
 3. Shesh Prasad Son Of Shree Rajballabh Prasad Resident Of Village-
Haundaari, Po- Mohiniuddinpur Bansbigaha, Ps- Chiksaura, Sub-Division-
Hilsa, Dist- Nalanda Bihar

... ... Petitioner/s

Versus

1. The State of Bihar
2. Sunaina Devi Wife Of Vijay Prasad (complainant) Resident Of Village-
Haundaari, Po- Mohiniuddinpur Bansbigaha, Ps- Chiksaura, Sub-Division-
Hilsa, Dist- Nalanda Bihar
3. Vijay Prasad Son Of Nand Kishore Prasad (witness No. 1 Of The
Complainant) Resident Of Village- Haundaari, Po- Mohiniuddinpur
Bansbigaha, Ps- Chiksaura, Sub-Division- Hilsa, Dist- Nalanda Bihar
4. Surendra Kumar Son Of Vijay Prasad And Complainant Sunaina Devi
(witness No. 2 Of The Complainant) Resident Of Village- Haundaari, Po-
Mohiniuddinpur Bansbigaha, Ps- Chiksaura, Sub-Division- Hilsa, Dist-
Nalanda Bihar
5. Kamlesh Prasad Son Of Nand Kishore Prasad Yadav (witness No. 3 Of The
Complainant) Resident Of Village- Haundaari, Po- Mohiniuddinpur
Bansbigaha, Ps- Chiksaura, Sub-Division- Hilsa, Dist- Nalanda Bihar

... ... Respondent/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Sinha, Advocate
For the Respondent/s : Mr. Anand Kishore Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 15-07-2025 The petitioners are accused persons in Complaint

Case No. 556(c) of 2011, against whom Judicial Magistrate, I

Class, Hilsa (Nalanda) framed charge vide order dated

08.01.2024 under Section 341/323/324/504/34 of the IPC after



rejecting an application under Section 239 of the Cr.P.C. filed by the petitioners praying for discharge.

2. The said order dated 08.01.2024 is under challenge in the instant revision. It is submitted by the learned Advocate on behalf of the petitioners that in course of evidence before charge the witnesses made contradictory statement and no witness corroborated the evidence of other witness. Therefore, the Trial Court committed an error while framing charge against the accused persons after rejecting an application under Section 239 of the Cr.P.C. In order to substantiate his contention, it is submitted by the learned Advocate for the petitioners that the complainant in her complaint stated that accused Mithlesh Prasad assaulted her with a stick on her hand causing serious injury. Her hand was fractured and she fell down on the ground. Thereafter, accused Shesh Prasad snatched gold earrings worth Rs. 12,000/- and a silver chain worth Rs. 1000/- from her ears and neck respectively. However, in her deposition the complainant stated that accused Mithlesh snatched away the earrings and a silver chain from her possession. Therefore, there is discrepancy between the statement made in the complaint by the complainant against the petitioners and in her deposition. Such contradiction also appears in the deposition of the husband



and son of the complainant.

3. It is also contended by the learned Advocate for the petitioners that all the witnesses are close relatives of each other. They are very much interested about the outcome of the case. No independent witness has been examined by the complainant, and therefore, the Trial Court ought not to have believed the evidence of the complainant and other witnesses and the accused persons ought to be discharged from the case.

4. The learned Advocate on behalf of the opposite party/complainant has opposed the submission made by the learned Advocate on behalf of the petitioners. It appears from the statement made by the learned Advocate for the petitioners that the instant revision has been filed challenging an order of framing of charge against the accused persons.

5. It is needless to say that this case was tried as a warrant case by the learned Magistrate, 1st Class, Hilsa. It is needless to say warrant cases are of two types- (A) cases instituted on a police report and (B) cases instituted otherwise than on police report. Section 239 applies in respect of cases instituted on police report. The case pending before the learned Judicial Magistrate was not instituted on a police report, therefore, Section 239 of the Cr.P.C. is not applicable. Be that as



it may, this Court would have taken such application as an application under Section 245 of the Cr.P.C., but no such application is on record, issue raised by the learned Advocate on behalf of the petitioners cannot be entertained.

6. The learned Advocate for the petitioners refers to a petition under Section 340 read with Section 195 of the Cr.P.C. Section 195 of the Cr.P.C. deals with the procedure relating to prosecution for contempt of lawful authority of public servants for offences against public justice and for offences relating to documents given in evidence. Section 340 of the Cr.P.C. states the procedure as to how a prosecution under Section 195 of the Cr.P.C. can be lodged. Section 195 cannot be attracted in case of discrepancy in evidence on record of two witnesses. If there are contradictions in the evidence of the parties, such contradictions must have to be brought on record by way of cross-examination and if such contradiction is proved, the accused persons are entitled to get benefit of doubt on the ground of material contradictions. In Complaint Case No. 556(C) of 2011, the witnesses were not even cross-examined. At the stage of evidence before charge, Section 195 has no manner of application. The decision of the Hon'ble Supreme Court in *M. Narayandas vs. State of Karnataka & Ors.* reported in *AIR*



2004 SC 555 may be referred in this regard. It is needless to say that by adducing evidence in different manners, the witnesses on behalf of the complainant did not commit any contempt of lawful authority or any offence against public justice.

7. Therefore, I do not find any merit in the instant criminal revision. The revision application is dismissed.

(Bibek Chaudhuri, J)

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