

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25719 of 2025

Arising Out of PS. Case No.-238 Year-2020 Thana- KAMTAUL District- Darbhanga

1. Amar Yadav @ Amar Kumar Yadav S/o- Jaychandra Yadav @ Jaychandra Ray Village- Khajurwara PO-Jahangir Tola PS- Kamtaul District- Darbhanga Bihar
2. Jaychandra Yadav @ Jaychandra Ray S/o- Devendra Yadav Village- Khajurwara PO-Jahangir Tola PS- Kamtaul District- Darbhanga Bihar
3. Rubi Kumari D/o- Jaychandra Yadav @ Jaychandra Ray Village- Khajurwara PO-Jahangir Tola PS- Kamtaul District- Darbhanga Bihar
4. Archana Kumari D/o- Jaychandra Yadav @ Jaychandra Ray Village- Khajurwara PO-Jahangir Tola PS- Kamtaul District- Darbhanga Bihar
5. Nilu Kumari D/o- Jaychandra Yadav @ Jaychandra Ray Village- Khajurwara PO-Jahangir Tola PS- Kamtaul District- Darbhanga Bihar
6. Khushi Kumari D/o- Jaychandra Yadav @ Jaychandra Ray Village- Khajurwara PO-Jahangir Tola PS- Kamtaul District- Darbhanga Bihar
7. Chandra Rekha Devi @ Chandra Rekha @ Chandrarekha W/o- Jaychandra Yadav @ Jaychandra Ray Village- Khajurwara PO-Jahangir Tola PS- Kamtaul District- Darbhanga Bihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rekha Devi W/o- Vijay Kumar Ray Village- Khajurwara PO-Jahangir Tola PS- Kamtaul District- Darbhanga Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Pathak, Advocate
		Mr. Md Fazle Karim, Advocate
For the Opposite Party/s	:	Mr. Ram Naresh Ray, APP
For the informant	:	Mr. Raj Shekhar, Advocate
		Mr. Kaushal Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 26-09-2025

Heard Mr. Ashok Kumar Pathak, along with Mr.
Md Fazle Karim, learned counsels appearing on behalf of the
petitioner and Mr. Ram Naresh Ray, learned APP for the State
and Mr. Raj Shekhar, along with Mr. Kaushal Kumar, learned



counsels appearing on behalf of the informant .

2. The present application has been filed for quashing the order dated 15.10.2022 passed by learned Judicial Magistrate Ist Class, Darbhanga, arising out of Kamtoul P.S. Case No.238 of 2020, by which cognizance of the offences has been taken under Sections 147, 148, 149, 341, 323, 354(B), 307, 504 and 506 of the Indian Penal Code against the petitioners.

3. Learned counsel appearing on behalf of the petitioners submitted that the petitioners and the informant are own family members, between whom there was partition of land in past and the dispute arose in respect to a path connecting to the main road in respect of the ancestral land, which fell in the share of the petitioners. For the said reason on the alleged date of occurrence, as per the FIR, the tension between the parties resulted into free fight, in which some persons were injured. Even FIR was lodged three days after the said incidence. Learned counsel submitted that one of the petitioners is advocate of this Court and out of 7 petitioners, 5 petitioners are female family members and petitioner nos.1 and 2 are male family members. He further submitted that petitioner no.2 is handicapped, having 40% benchmark disability. Learned counsel submitted that the allegations made in the FIR against



the petitioners are ornamental and are made with an intention to drag the name of the petitioners and not to allow them to have access to their own land, which is in the back side of the partition land. The informant being in the front of the road wants to take advantage of her land due to high value of the land.

4. *Per contra*, learned counsel appearing on behalf of the informant submitted that considering element of criminality and the offence against the woman, it is not a case where the dispute is civil in nature and as such, the order taking cognizance cannot be interfered by this Court. He informs that the matter was adjourned, so that the parties can explore, as to whether they want to compromise but the parties did not agree. Learned counsel submitted that even otherwise also Section 307 of the Indian Penal Code is non-compoundable and if the matter is considered on merit, the learned Judicial Magistrate Ist Class, Darbhanga, has not erred in any manner in considering the materials, which has come in course of investigation, before taking cognizance of the offences under Sections 147, 148, 149, 341, 323, 354(B), 307, 504 and 506 of the Indian Penal Code against the petitioners. Learned counsel however is of the opinion that the materials, which have been collected against the



female members of the family, are not convincing and also considering that the informant is own family members of the petitioner, they don't want to drag them into criminal case, subject to certain conditions imposed by this Court.

5. Heard the parties.

6. The main allegation against the petitioners is that they assaulted the informant and her son, causing injury on head of the informant, allegedly with an intention to kill and all the accused persons had outraged the modesty of the informant. Upon examining the background of the dispute, I find that because of the obstruction made by the informant in respect of the passage, which leads to land of the petitioners, the parties had dispute in spite of the fact that the partition between them is admitted. The injury is on the head of the informant and said injury is corroborated with the C.T. scan report, in which it has been opined that the injury is on the right parietal region of the head, which has been found to be simple in nature and the same is a result of assault by lathi and iron bar. Considering the nature of allegation and the fact that the injury is simple in nature, this Court leads to conclude that the overt act attributed to the petitioners cannot bring them within the four corners of the Section 307 of the Indian Penal Code. 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 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..."

(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 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 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."

7. So far as, the allegation under Section 354 (b) is concerned, the same appears to be ornamental in nature. In this regard, I find it apt to take note of the observation made by the Apex Court recently in case of ***Naresh Aneja @ Naresh Kumar Aneja Versus State Of Uttar Pradesh & Anr.*** reported in (2025) ***INSC 19*** in para-10 and 11, which is reproduced hereinafter:

"10. It is well settled that when considering an application u/s 482 CrPC, the court cannot conduct a mini-trial but instead is to be satisfied that prima facie the offences as alleged are made out. To put it differently,



it is to be seen, without undertaking a minute examination of the record, that there is some substance in the allegations made which could meet the threshold of statutory language.

11. Let us now consider the sections under which the offences have been alleged. "354. Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine. 503. Criminal intimidation.—Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threats, commits criminal intimidation. Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section. 506. Punishment for criminal intimidation.—Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; if threat be to cause death or grievous hurt, etc.—and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

8. Turning to the facts of the instant case keeping in view the contents of the FIR the allegation leveled against the petitioners are general and omnibus in nature as out of 7 petitioners, 5 petitioners are female family members and petitioner nos.1 and 2 are male family members, the discussion made hereinabove and the law laid down by the Apex Court in case of *Naushey Ali (Supra)* and *Naresh Aneja (Supra)* the



order taking cognizance in connection with Kamtoul P.S. Case No.238 of 2020, is hereby *set-aside* and *quashed*.

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

10. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.09.2025
Transmission Date	NA

