

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42708 of 2025

Arising Out of PS. Case No.-91 Year-2020 Thana- SAHIYARA District- Sitamarhi

Sanjay Kapar S/O Methur Kapar R/O Vill.- Pathaniya Kot, P.s.- Riga,
Dist.- Sitamarhi.

... .. Petitioner

Versus

1. The State of Bihar
2. Ganesh Kumar Singh S/O Late Sukhdev Singh R/O Vill.- Pathaniya
Kot, P.s.- Sahiyara, Dist.- Sitamarhi.

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Yogesh Chandra Verma, Sr. Advocate Mrs.Madhubala Verma, Advocate
For the Opposite Party/s	:	Mr.Pramod Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 02-07-2025 Heard Mr. Yogesh Chandra Verma, learned senior

counsel appearing on behalf of the petitioner and learned

A.P.P. for the State.

2. This application has been preferred under Section
482 of the Code of Criminal Procedure (in short, the ‘Cr.P.C.’)
as to quash the order dated 02.06.2025 passed by learned
Additional Sessions Judge-XV, Sitamarhi in Session Trial No.
66/22 + 515/22 + 86/23, arising out of Sahiyara P.S. Case
No. 91/2020, registered for the offences punishable under
Sections 147, 148, 149, 323, 354, 307, 302 of the I.P.C.
and 27 of the Arms Act, whereby learned trial court has been



pleased to reject the petition filed by the petitioner under section 348 of BNSS for summoning Dr. Uday Bhanu Singh, Medical Officer, community Health Centre, Riga to prove the injury report of Sanjay Kapar (petitioner), which has been prepared by him.

3. After arguing at length, Mr. Verma, learned senior counsel appearing for the petitioners seeks permission to withdraw this application with liberty to take appropriate steps, if any, before the learned trial court itself.

4. At this stage, Mr. Verma, by referring legal report of Hon'ble Supreme Court as available through **Nathilal and Others Vs. State of U.P. and Another** reported in **1990 (Supp.) SCC 145** and **State of M.P. Vs. Mishrilal (Dead) and Others** reported in **(2003) 9 SCC 426**, submitted that at least case of petitioner (S. Tr. No. 74/2024, arising out of Sahiyara P.S. Case No. 92 of 2020) be heard together as cross case/counter case.

5. Learned A.P.P. for the State is present.

6. It would be apposite to reproduce para 7 of **Mishrilal case (supra)**, which reads as under:



“7. Undisputedly, accused Mishrilal lodged the report to the police vide Ext. D-8 over the same incident which happened on 5-3-1987, in which he had clearly stated that the injuries were sustained by him and his son Madhusudan at the hands of the prosecution party. It is also not disputed that on the strength of the complaint lodged by Mishrilal, investigation was also carried out and challan was filed, namely, Crime Case No. 52 of 1987 under Sections 147, 148, 149 and 324 IPC against the prosecution party which is pending for disposal before the learned Judicial Magistrate, First Class. In the said challan, the prosecution party is stated to be the aggressor. This Court in ***Nathi Lal v. State of U.P.*** [1990 Supp SCC 145 : 1990 SCC (Cri) 638] pointed out the procedure to be followed by the trial court in the event of cross-cases. It was observed thus: (SCC pp. 145-46, para 2)

“2. We think that the fair procedure to adopt in a matter like the present where there are cross-cases, is to direct that the same learned Judge must try both the cross-cases one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgment. Thereafter he must proceed to hear the cross-case and after recording all the evidence he must hear the arguments but reserve the judgment in that case. The same learned Judge must thereafter dispose of the matters by two separate judgments. In deciding each of the cases, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross-case cannot be looked into. Nor can the Judge be influenced by whatever is argued in the cross-case. Each case



must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in any manner by the evidence or arguments urged in the cross-case. But both the judgments must be pronounced by the same learned Judge one after the other.”

7. In view of the aforesaid submission of Mr. Verma, this application stands dismissed as withdrawn, however with aforesaid liberty.

8. However, learned trial court is directed to conclude the trial of both the cases (where petitioner is informant) treating it as case and counter case in view of **Mishrilal case (supra)**.

9. This application stands disposed of with aforesaid direction.

10. Let a copy of this judgment be sent to learned trial court immediately.

(Chandra Shekhar Jha, J)

Rajeev/-

U		T	
---	--	---	--

