

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24331 of 2021

Arising Out of PS. Case No.-2415 Year-2019 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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SAURAV KUMAR Son of Kumar Bibha Nand Resident of 3 RC-8
Bahadurpur Housing Colony, Kankarbagh, P.S.- Agamkuan, District- Patna.

... .. Petitioner/s

Versus

1. Rajani Kumari W/O Saurav Kumar, D/O Sri Ramesh Poddar At Present R/at
Ashok Nagar, Pokharia, P.s.- Town, Dist.- Begusarai.
2. The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Naresh Ray, Advocate
For the State	:	Mr. Ajit Kumar, APP
For the Opposite Party No.1	:	Mr. Braj Bhushan Poddar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

7 31-10-2025 Heard Mr. Ram Naresh Ray, learned counsel
appearing on behalf of the petitioner; Mr. Ajit Kumar, learned
APP for the State and Mr. Braj Bhushan Poddar, learned counsel
appearing on behalf of the Opposite Party No.1.

2. The present application has been filed for quashing
the order dated 11.02.2020 passed by the learned Judicial
Magistrate – Ist Class, Begusarai in connection with Complaint
Case no.2415(C) of 2019, by which cognizance of the offences
has been taken under Sections 498(a) of the Indian Penal Code
and Sections 3 and 4 of the D.P. Act.

3. At the outset, without entering into merits, learned
counsels appearing on behalf of the parties, as per the



instruction of their respective parties, submitted that the parties want to settle the strained matrimonial relationship outside the Court amicably. It has also been informed by the learned counsels that a chance be given to the husband (petitioner) and wife (O.P. No.1) to settle their dispute amicably.

4. Records reveal that several cases have been filed by the respective parties against each other and their family members. It has also been informed that a divorce case has been filed under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 before the Principal Judge, Family Court, Patna for dissolution of marriage. The said petition has been brought on record by way of Annexure-6.

5. The petitioner don't give any information regarding number of cases which were filed by O.P. No.1 in the year 2020. It is also apparent from the records that at the same time the O.P. No.1, who is the wife of the petitioner, has also filed a maintenance case which is also pending before the Family Court concerned. There is no information in the pleadings, as well as, nothing on record to show that any development has taken place before the learned District Court concerned in the cases filed by the respective parties against each other. Today, after several adjournments, respective counsels appearing on behalf



of the parties inform that they are willing to settle their dispute amicably and a chance be given to them.

6. The present quashing application arises out of Complaint Case no.2415(C) of 2019. This Court finds that after lapse of time, the husband and wife may have also experienced the result of their ongoing unwanted fight which primarily has resulted out of their personal ego. Having realised that no purpose will be served by engaging in litigation, the parties have lastly agreed to settle their dispute amicably. In such circumstances, without passing any order on merits, let the party settle their dispute and lead a happy matrimonial life. At this stage, both the counsels jointly submitted that they will advise their respective parties to withdraw the respective cases filed against each other.

7. The learned District Court concerned where the cases filed by respective parties are pending must also consider to abide by the decision and 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.”

8. Accordingly, the present application is consigned.

(Purnendu Singh, J)

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