

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.50467 of 2019

Arising Out of PS. Case No.-117 Year-2017 Thana- HATHUA District- Gopalganj

1. Anurudh Rai @ Anirudh Singh Son of Late Rajendra Rai Resident of Village- Nayagaon, Police Station- Hathua, District- Gopalganj.
2. Lakshuman Rai @ Laxman Singh Son of Late Rajendra Rai Resident of Village- Nayagaon, Police Station- Hathua, District- Gopalganj.
3. Maya Devi Wife of Anurudh Rai @ Anirudh Singh Resident of Village- Nayagaon, Police Station- Hathua, District- Gopalganj.
4. Vivek Rai @ Vivek Kumar Singh Son of Anurudh Rai @ Anirudh Singh Resident of Village- Nayagaon, Police Station- Hathua, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ruma Kumari Daughter of Mangal Rai Resident of Village- Nayagaon, Police Station- Hathua, District- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh, Advocate
For the O.P. No. 2 : Mr. Pankaj Kumar Dubey, Advocate
For the State : Mr. Md. Matloob Rab, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 24-11-2025

Heard learned counsel appearing on behalf of the petitioners; Mr. Pankaj Kumar Dubey, learned counsel for the O.P. No. 2 and Mr. Md. Matloob Rab, learned A.P.P. for the State.

2. The petitioners have preferred application under Section 482 Cr.P.C. for quashing the order dated 23.03.2018



passed by learned Chief Judicial Magistrate, Gopalganj in G.R. No. 3099 of 2017 arising out of Hathua P.S. Case No.117 of 2017 Trial No. 2089 of 2018, by which cognizance of the offences has been taken under Sections 323, 341, 307 and 504 of the Indian Penal Code against the petitioners.

3. Prosecution story in brief is that while the younger brother and sister of the informant were coming from the school, the petitioners along with other accused persons, had started assaulting them and when the informant came for rescue, they had also assaulted her by means of *lathi danda* and iron rod causing head injury.

4. Learned counsel appearing on behalf of the petitioners submitted that he is seeking quashing on the ground that in absence of any evidence, the Investigating Officer had submitted final form in respect of the petitioners. The FIR don't reveal that with a common intention, the petitioners along with other co-accused, Vijay Kumar, had assaulted the informant or her family members, who had sustained injury. The allegation being general and omnibus cannot be said to be specific against the petitioners. He further submitted that objective behind lodging of the FIR is to resolve the land dispute by implicating the petitioners in a false criminal case and in this regard, he has



made a specific statement in paragraph no. 10 of the application. Record reveals that independent witnesses have not supported the prosecution story and in this regard, he has made a specific statement in paragraph no. 11 of the application. Learned counsel further submitted that from perusal of the order taking cognizance dated 23.03.2018, in absence of any discussion made in respect of the materials, which the learned magistrate have found in paragraphs no. 1,5,6,7,8 and 9, the order taking cognizance is mechanical and any reason having not been recorded, has been deprecated by the Apex Court in the case of ***Pepsi Foods Ltd. And Anr. Vs. SPI Judicial Magistrate and Ors*** reported in ***(1998) 5 SCC 749***. Learned counsel further submitted that parameter has been laid down by the Apex Court in paragraph no. 102 in the case of ***State of Haryana v. Bhajan Lal*** reported in ***1992 Supp (1) SCC 335***, and the order taking cognizance along with entire criminal proceeding is fit to be quashed and set aside.

5. *Per contra*, learned counsel appearing on behalf of the O.P. No. 2 along with learned A.P.P. for the State jointly submitted that magistrate has not committed any procedural lapses, rather, the order taking cognizance is well discussed based on the material evidences recorded in the order and the



materials surfaced in course of investigation shows that the Investigating Officer, in a mechanical manner, has submitted final form against the petitioners. The petitioners are required to face trial as *prima facie* case is made out against them.

6. However, learned counsels appearing on behalf of both the parties submitted that the parties shall not indulge into frivolous litigation only to harass each other and a chance be given to the parties for amicable settlement outside the court.

7. Learned counsels appearing on behalf of the petitioners and O.P. No.2, on instruction, submitted that the petitioners and O.P. No.2 have agreed to appear before the learned District Court at 10:30 A.M. on 22.12.2025.

8. Heard the parties.

9. Having considered the rival submissions made on behalf of the parties, as well as, I have also perused the allegation made in the FIR from which, it appears that so far as petitioners are concerned, no doubt that allegation against them is general and omnibus but, at the same time, the complicity of the petitioners from the alleged offence cannot be completely ruled out. More important fact, which has emerged that a land dispute between the parties is ongoing and in such circumstances, an opportunity is required to be given to the



parties to settle their score amicably outside the Court.

10. 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."

11. The petitioners and O.P. No. 2 have willingly desired to appear before the learned District Court on or before 22.12.2025, so that the matter can be referred to the District Mediation Centre.

12. Learned District Court is directed is directed to take necessary steps to issue notices to the respective parties and



upon their appearance, refer the matter before the learned Mediator of the District Mediation Center by fixing a date for appearance of the parties.

13. Learned Mediator of the District Mediation Center concerned, upon appearance of the parties, shall make his/her best efforts to settle the dispute amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of four months, till then, no coercive action shall be taken against the petitioners in connection with the aforesaid case.

14. In case, the parties resolve their dispute amicably and file joint compromise petition, then the proceeding will become unwarranted and the same is required to be dropped in light of the law laid down by the Apex Court as referred hereinabove.

15. In case of failure on the part of the petitioners to appear on or before 22.12.2025 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioners shall automatically lose its force.

16. In case, it is deliberate on the part of the petitioners and they fail to reconcile, then in that case, the learned District Court shall proceed with the trial. In case, it is



deliberate on the part of the opposite party no.2 to reconcile, then in that case, the interim protection granted to the petitioners shall continue and the trial shall proceed in accordance with law.

17. Accordingly, the quashing application stands disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	28.11.2025
Transmission Date	28.11.2025

