

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63676 of 2025

Arising Out of PS. Case No.-601 Year-2022 Thana- RAJAOLI District- Nawada

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1. Bindeshwari Prasad S/o Dwarik Mahto Resident of Village- Pranchak, P.S.- Rajauli, Dist.- Nawada.
 2. Bipin Kumar @ Vipin Kumar S/o Bindeshwar Prasad Resident of Village- Pranchak, P.S.- Rajauli, Dist.- Nawada.
 3. Binay Kumar S/O Bindeshwar Prasad Resident of Village- Pranchak, P.S.- Rajauli, Dist.- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kamla Devi W/o Mundrika Prasad Resident of Village- Pranchak, P.S.- Rajauli, Dist.- Nawada.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar Sinha, Advocate.
For the Opposite Party/s	:	Mr.Mithlesh Kumar Khare, APP.
For O.P. No.2	:	Mr. Hansraj, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 09-12-2025

Heard learned counsel appearing on behalf of the petitioners, learned APP for the State and learned counsel for the opposite party no.2.

2. The petitioners have preferred the application under Section 528 of BNSS for quashing the order dated 22.07.2025 passed by the learned Additional Sessions Judge-IX, Nawada in S. Tr. No. 72 of 2025, arising out of Rajauli P.S. Case No. 601 of 2022, whereby and whereunder the learned Court dismissed the petition dated 05.05.2025 filed under



Section 228 of the Cr.P.C. for trial and disposal.

3. The prosecution case, in brief is that the informant Kamla Devi has alleged that on 10.08.2022 at about 07:00 A.M., the accused persons, namely Bindeshwari Prasad, Vinay Kumar and Bipin Kumar, were jointly cutting a Ber tree standing adjacent to her house. When she objected, the accused persons allegedly trespassed into her house, where petitioner no.1 is said to have ordered to kill the informant, her husband and her daughter. It is further alleged that petitioner no.3 assaulted the informant on the head with a Dabi, causing bleeding injuries, and when she fell on the ground petitioner no.1 assaulted her with a rod on her eye, while petitioner no.2 allegedly attacked her daughter with a dabi on the head. The informant also alleges that petitioner no.1 snatched her earring worth Rs. 25,000/-. Thereafter, all three accused persons allegedly assaulted her husband, Mundrika Prasad, and fled. The injured victims were taken to Rajauli Hospital and subsequently referred to Sadar Hospital, Nawada. The informant claims that the Station In-charge, Rajauli, refused to register the FIR, compelling her to send a written complaint to the Superintendent of Police, Nawada on 11.08.2022. The complaint was filed on 12.08.2022 and registered as Complaint Case No. 975 of 2022, which was



subsequently converted into F.I.R. under Section 161 CrPC, and an FIR dated 04.11.2022 was registered as Rajauli P.S. Case No. 601 of 2022 for the offences punishable under Sections 341, 323, 324, 379, 307 and 452/34 of the Indian Penal Code.

4. Learned counsel appearing on behalf of the petitioners submitted that the parties are close family members. The petitioner no.1 is the elder brother of the husband of the informant and petitioner nos. 2 and 3 are sons of petitioner no.1. As per the allegation made in the F.I.R., the petitioner no.1 is said to be the order giver and petitioner nos. 2 and 3 are said to have assaulted the informant and her husband causing injury. Learned counsel submitted that both the parties sustained injury and the offence as alleged cannot be said that it is against the society. It is submitted that the parties, in such circumstances, may be allowed to proceed to compromise and get rid of the criminal prosecution in light of the law laid down by the Apex Court in the case of *Naushey Ali & Ors. Vs. State of U.P., reported in (2025) 4 SCC 78*. He submitted that the matter be referred for mediation.

5. Mr. Hansraj, learned counsel has tendered his appearance on behalf of the opposite party no.2 and submitted that he also finds that in view of the recent judgment of the



Apex Court, the parties may be given chance to get rid of the criminal prosecution by entering into compromise.

6. Heard the parties.

7. Considering the nature of allegation made in the F.I.R. against the petitioners, I find it apt to take note of the observations made by the Apex Court recently in the case of ***Naushey Ali (supra)*** in paragraph Nos. 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 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."

8. Considering the aforesaid submissions made on behalf of the parties and the law laid down by the Apex Court in the case of *Naushey Ali (supra)*, I find it proper to direct the learned District Court to call upon both the parties and if the



parties desire to get rid of the case and resolve the dispute by way of mediation, may refer the matter before the learned Mediator of the District Mediation Center.

9. In that case, the learned Mediator of the District Mediation Center after fixing the date for appearance of both the parties shall make his/her best efforts to settle the dispute between the parties 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.

10. In case, the parties resolve their dispute amicably or arrive at a mutual settlement, then the proceeding is required to be dropped in light of the law laid down by the Apex Court as referred hereinabove.

11. In case of failure on the part of the petitioners to appear 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.

12. 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, continuing with the criminal proceeding will amount to abuse of process of court and the interim protection granted to petitioners shall continue and the proceeding against them is required to be dropped in accordance with law.

13. Accordingly, the order dated 22.07.2025 passed in S. Tr. No. 72 of 2025, arising out of Rajauli P.S. Case No. 601 of 2022 is modified to the above extent with respect to petitioners.

14. It is observed that the police, at the stage of filing of chargesheet, and the criminal court, at the stage of framing of charges, must act as initial filters ensuring that only cases with a strong suspicion should proceed to the formal trial stage to maintain the efficiency and integrity of the judicial system.

15. Accordingly, the present quashing application stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.12.2025
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