

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70647 of 2025

Arising Out of PS. Case No.-374 Year-2022 Thana- KALYANPUR District- Samastipur

Mahesh Thakur @ Mahesh Kumar Thakur S/o- Late Ramashish Thakur
Resident of village-Lakshrampur Police Station- Kalyanpur District-Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dayanand Thakur S/o- Late Bhagirath Thakur Village- Lakshrampur Ps-
Kalyanpur Dist- Sitamarhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanobar Shahnaz, Advocate

For the Opposite Party/s : Mrs. (Dr.) Indiar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 02-12-2025

Heard Mr. Sanobar Shahnaz, learned counsel
appearing on behalf of the petitioner and Mrs. (Dr.) Indiar
Kumari, learned APP for the State.

2. The petitioner has preferred the application
under Section 528 of BNSS for quashing the order taking
cognizance dated 29.02.2024 passed by the learned Chief
Judicial Magistrate, Samastipur in Kalyanpur P.S. Case No. 374
of 2022 by which the learned Magistrate has taken cognizance
of offence against the petitioner under Sections 341, 323, 307,
379, 504, 354 and 34 of the Indian Penal Code.

3. Learned counsel appearing on behalf of the
petitioner, without going into the merits of the case, informs that



the petitioner and informant are co-villagers and due to land dispute an altercation took place between the parties, for which the present FIR has been lodged. Learned counsel further informs that the parties have already filed the compromise petition on 17.06.2025 before the Chief Judicial Magistrate, Samastipur. On these grounds learned counsel submitted that the order taking cognizance is fit to be set aside and quashed.

4. Learned APP for the State has opposed.

5. Having considered the rival submissions made on behalf of the parties, I find that the offences as alleged in the FIR registered under Section 307 and 379 of Indian Penal Code is cognizable in nature and the parties are ready to settle the dispute outside the court. The parties are co-villagers and the present dispute arises due to previous enmity relating to a piece of land, which led to lodging of the present FIR under Section 307 and 379 of the Indian Penal Code and the learned District Court has taken cognizance in the aforesaid sections.

6. The Apex Court in the case of *Naushey Ali & Ors. Vs. State of Uttar Pradesh & Anr.* reported in (2025) 4 SCC 78, in para nos. 8 to 20 has observed that after amicable settlement between the parties, proceeding with the criminal prosecution will serve no purpose and would amount to abuse of process of



law, which are reproduced hereinafter:

“ 8. Coming to the facts, notwithstanding the fact that the High Court has mixed up the concepts of compounding and powers of quashment, still the case needs to be considered from the point of view of Section 482.

9. Will the mere mention of Section 307 IPC in the criminal proceedings force the court to adopt a hands-off approach, when parties come forward with a settlement? In that event, what should be the duty of the court and what are the tests to be applied to decide in which cases settlements would be accepted and in which cases it would not be?

10. In State of Madhya Pradesh vs. Laxmi Narayan and Others, (2019) 5 SCC 688, after discussing the ratio in Narinder Singh and Others vs. State of Punjab and Another, (2014) 6 SCC 466 and other judgments, this Court held:-

"15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1. That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3. Similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

15.4. Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act, etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482



of the Code, on the ground that the parties have resolved their entire dispute amongst themselves.

However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc.

However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paras 29.6 and 29.7 of the decision of this Court in Narinder Singh should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5. While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc."

(Emphasis supplied)

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 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."(emphasis supplied)

7. Keeping in mind the circumstances, nature of injury



and dispute between the parties, as well as, taking note of the joint compromise petition dated 17.06.2025 filed before the Chief Judicial Magistrate, Samastipur and the said fact has also been taken note by him *vide* order dated 20.06.2025 and considering the law laid down by the Apex Court in case of *Naushey Ali (supra)*, the order taking cognizance dated 29.02.2024 passed by the learned Chief Judicial Magistrate, Samastipur in Kalyanpur P.S. Case No. 374 of 2022 is hereby ***quashed and set-aside.***

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

9. Office is directed to keep the Certified copy of the order passed by the learned Chief Judicial Magistrate, Samastipur on record.

(Purnendu Singh, J)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.12.2025
Transmission Date	10.12.2025

