

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28762 of 2023

Arising Out of PS. Case No.-647 Year-2010 Thana- SASARAM NAGAR District- Rohtas

NAWAZ SHARIF @ NAWAZ @ NAWAZ SHAREEF S/O NESAR AHMAD
R/O Village- Baradari, P.S- Sasaram, Distt.- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Tannu Khan S/O Bhaku Khan R/O Mohalla Baradari, P.S- Sasaram, Distt.- Rohtas
3. Chhotu Khan S/O Bhaku Khan R/O Mohalla Baradari, P.S- Sasaram, Distt.- Rohtas
4. Naushad Khan S/O Shoukat Khan R/O Mohalla Baradari, P.S- Sasaram, Distt.- Rohtas
5. Mumshad Khan S/O Shoukat Khan R/O Mohalla Baradari, P.S- Sasaram, Distt.- Rohtas
6. Budhan Khan S/O Shoukat Khan R/O Mohalla Baradari, P.S- Sasaram, Distt.- Rohtas
7. Sonu Khan S/O Chaku Khan R/O Mohalla Baradari, P.S- Sasaram, Distt.- Rohtas
8. Tabrej Khan S/O Iqbal Khan R/O Mohalla- Ansarganj, P.O and P.S- Sasaram, Distt.- Rohtas.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Shubham Kr Singh (Amicus curiae)
For the Opposite Party/s : Mr.Anita Kumari

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL JUDGMENT

Date : 20-04-2026

Mr Madhukar Anand and Mr Shubham Kumar Singh,

Advocates have assisted the Court in the disposal of this case in a very detailed manner, both on law as well as facts.

2 The petitioner has come up against the order dated 15.09.2016 where the learned CJM, Sasaram in Sasaram PS Case No 647 of 2010 dropped the proceeding on the ground of



limitation. The learned CJM recorded that the FIR was lodged under Sections 147, 148, 341, 323, 329, 504 of the IPC on 28.07.2010 and the date of taking cognizance had elapsed since the maximum punishment was of three years. The petitioner challenged the said order in revision also and the revisional Court also confirmed the same misapplying the law as laid down by the Hon'ble Supreme Court in the case of *Japani Sahoo -Versus- Chandra Sekhar Mohanty, (2007) 7 SCC 394*.

3 Section 469 of the Cr P C reads as under.

“469. Commencement of the period of limitation.- (1) The period of limitation, in relation to an offence, shall commence,-

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded.”



4 The Hon'ble Supreme Court on a divergence of opinion finally held in the case of *Japani Sahoo (supra)* that it is not within the domain of the complainant or the prosecuting agency to take cognizance of an offence or to issue process and the only thing the complainant can do is to file complaint or initiate proceedings in accordance with law. If that action of initiation of proceedings has been taken within the period of limitation, the complainant is not responsible for any delay on the part of the Court or Magistrate in issuing process or taking cognizance of the offence. Thus, it was held that the complainant or the informant should not be penalized because of the omission, default or inaction on the part of the Court or Magistrate. It finally concluded in paragraph 53 as under:

“53. In view of the above, we hold that for the purpose of computing the period of limitation, the relevant date must be considered as the date of filing of complaint or initiating criminal proceedings and not the date of taking cognizance by a Magistrate or issuance of process by a Court. We, therefore, overrule all decisions in which it has been held that the crucial date for computing the period of limitation is taking of cognizance by the Magistrate/Court and not of filing of complaint or initiation of criminal proceedings.”

5 That the FIR is of 28.07.2010 and the learned Magistrate dropped the proceeding on 15.09.2016 holding that the period of limitation was over is completely erroneous reading of



the law. The date of occurrence, as per the FIR is 28.07.2010 and the FIR was lodged on the same date and the prosecution was initiated on the same date. Thus, the question of limitation completely stopped with the initiation of the prosecution as the petitioner has no role to play in submission of the charge sheet or further proceeding and he should not be penalized for the fault of the investigating agency. Viewed from another angle, any other interpretation may give a very long rope to the accused person who could manage the police and get the investigation delayed.

6 This application is allowed and both the orders dated 21.02.2023 passed in Criminal Revision No 250 of 2018 by the learned Additional Sessions Judge XIX, Rohtas at Sasaram and the order dated 15.09.2016 passed by the learned CJM, Rohtas at Sasaram in GR No 2082 of 2010 arising out of Sasaram Town PS Case No 647 of 2010 are unsustainable and are hereby quashed.

7 The learned CJM, Rohtas at Sasaram is directed to pass orders on the materials collected during investigation within a month of supply of a copy of this order.

(Ansul, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.04.2026
Transmission Date	27.04.2026

