

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1961 of 2019

Arising Out of PS. Case No.-13 Year-2016 Thana- BHORE District- Gopalganj

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1. Baliram Yadav, Son of Verma Yadav R/v Sirisiya, Police Station-Bhorey, District-Gopalganj.
 2. Adalat Yadav, Son of Late Shiv Person Yadav R/v Sirisiya, Police Station-Bhorey, District-Gopalganj.
 3. Maya Yadav @ Maya Prasad Yadav, Son of Adalat Yadav R/v Sirisiya, Police Station-Bhorey, District-Gopalganj.
 4. Umesh Yadav @ Umesh Kr. Yadav, Son of Adalat Yadav. R/v Sirisiya, Police Station-Bhorey, District-Gopalganj.
 5. Haresh Yadav, Son of Adalat Yadav R/v Sirisiya, Police Station-Bhorey, District-Gopalganj.
 6. Rita Devi, Wife of Balaram Yadav R/v Sirisiya, Police Station-Bhorey, District-Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Raj Pati Devi, Wife of Paran Yadav, Resident of Village-Sirisiya, Police Station- Bhorey, District- Gopalganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Javed Aslam, Adv.

For the Opposite Party/s : Mr. Dilip Kumar no. 1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 21-07-2026

1. Heard the parties.

2. The present quashing petition has been preferred to quash the order dated 26.07.2018 passed in Cr. Revision No. 952 of 2017 as passed by the learned Additional Sessions Judge-VIII, Gopalganj through which the order dated 03.05.2017 passed by the learned A.C.J.M.-XII, Gopalganj in Bhorey P.S. Case No. 13 of 2016, Trial No.



1505 of 2017 was affirmed through which the learned Magistrate was pleased to took cognizance against petitioners under Section 435 of IPC.

3. As per prosecution case, Ramapati Devi filed a complaint alleging that on 02.07.2015 at about 3:00 a.m., the accused persons abused her, set her hut on fire by sprinkling kerosene, assaulted her daughter-in-law and grandsons, and caused a loss of about ₹3 lakh. Despite informing Bhorey Police Station, no action was taken, so she filed a complaint, leading to the registration of Bhorey P.S. Case No. 13/2016 for investigation.

4. Police after investigation submitted closure report/ final form against petitioners.

5. On 16.01.2017 the O.P. No. 2 filed protest-cum-complaint petition before learned trial court where learned trial court, pleased to take cognizance for the offence punishable under section 435 of the IPC after examining five inquiry witnesses, which was challenged before the learned Session Judge and was dismissed through impugned order dated 26.07.2018 affirming the order of learned CJM,



Gopalganj without going into the merit.

6. Learned counsel for the petitioners raised sole ground that impugned order of revision through which the cognizance taken by learned CJM, Gopalganj, for the offence punishable under section 435 of the IPC, was approved is perverse for the reason that same was passed without assigning any reason.

7. It is submitted that there is no absolute bar that quashing petition under Section 482 of Cr.P.C. not be preferred against revision order, in view of Section 397(3) of Cr.P.C. Learned counsel in support of his submission relied upon para-5 of the judgment of Hon'ble Supreme Court as available through ***Kailash Verma Vs. Punjab State Civil Supplies Corporation and Another, [(2005) 2 SCC 571]***, which is as under:-

*5. It may also be noticed that this Court in **Rajathi v. C. Ganesan, [(1999) 6 SCC 326]** said that the power under Section 482 of the Criminal Procedure Code has to be exercised sparingly and such power shall not be utilised as a substitute for second revision. Ordinarily, when a revision has been barred under Section 397(3) of the Code, the complainant or the accused cannot be allowed to take recourse to revision before the High Court under Section 397(1) of the Criminal Procedure Code as it is prohibited under Section 397(3) thereof. However, the High Court can entertain a petition under Section 482 of the Criminal Procedure Code when there is*



serious miscarriage of justice and abuse of the process of the court or when mandatory provisions of law are not complied with and when the High Court feels that the inherent jurisdiction is to be exercised to correct the mistake committed by the revisional court.

8. In view of aforesaid it would be apposite to reproduce para no. 3, 4 and 5 of the impugned judgment, which is as under:-

3. It has been submitted on behalf of the revisionist that the order passed by the learned lower Court, dated 03-05-17 is bad in the eye of law and learned lower Court has not applied his judicial mind at the time of passing of the order. It has further submitted that after perusal of the deposition of enquiry witnesses it is clearly found that no allegation made out U/s. 435 of the I.P.C. against the revisionists and hence, order dated 3-5-17 as passed by the learned lower Court is liable to be set aside by allowing this revision.

4. I have gone through the entire materials facts of the case and on its perusal I find that the order, dated 3-5.17 as passed by learned A.C.J.M.XII, Gopalganj in Bhorey [P.S.case](#) No. 13/16 /Trial no. 1505/17 is correct, legal and I find no any infirmities and illegalities in the impugned order dated 3.5.17 and hence, the same is fit to be sustained and confirmed and this Revision petition is liable to be dismissed.

5. In the result, the order, dated 03.05.17 as passed by Learned A.C.J.M.XII, Gopalganj in Trial No. 1505/17 is hereby sustained and confirmed and this revision petition of the revisionists is hereby dismissed. O/c is directed to send back the case record to the concern Court along with this order for information and needful.

9. Taking note of aforesaid, it is convincing to this Court that impugned order of revision dated 26.07.2018 affirming the cognizance order as passed by learned CJM, Gopalganj for offence punishable under section 435 of the



IPC against petitioners is without supplying any reason, therefore, same is set aside with the direction to the learned revisional court to pass a fresh order supplying reason. The principle of "***Cessante racione legis cessat ipsa lex***" must be followed.

8. Let a copy of this judgment be sent to the learned trial court forthwith, with TCR, if any.

(Chandra Shekhar Jha, J)

Sudha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2026.
Transmission Date	21.07.2026.

