

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.748 of 2023

Arising Out of PS. Case No.-199 Year-2022 Thana- GHORASAHAN District- East
Champaran

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Banarsi Mahto Son of Late Inarmmal Mahto @ Inarman Mahto Resident of
Village- Chhitrauli, Police Station- Jharokhar, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Shambhu Prasad Son of Pritam Mahto Resident of Village- Chhitrauli,
Police Station- Jharokhar, District- East Champaran.
3. Rakesh Kumar Son of Ram Pukar Prasad Resident of Village- Chhitrauli,
Police Station- Jharokhar, District- East Champaran.
4. Lallan Kumar Son of Ram Pukar Prasad Resident of Village- Chhitrauli,
Police Station- Jharokhar, District- East Champaran.
5. Yogendra Mahto Son of Late Hoti Mahto Resident of Village- Chhitrauli,
Police Station- Jharokhar, District- East Champaran.
6. Mahendra Mahto Son of Late Hoti Mahto Resident of Village- Chhitrauli,
Police Station- Jharokhar, District- East Champaran.
7. Binod Prasad Son of Yogandra Mahto Resident of Village- Chhitrauli, Police
Station- Jharokhar, District- East Champaran.
8. Sanjay Kumar, son of Shambhu Prasad Resident of Village- Chhitrauli,
Police Station- Jharokhar, District- East Champaran.
9. Raj Kumar Son of Shambhu Prasad Resident of Village- Chhitrauli, Police
Station- Jharokhar, District- East Champaran.
10. Reena Devi Wife of Shambhu Prasad Resident of Village- Chhitrauli, Police
Station- Jharokhar, District- East Champaran.
11. Kunti Devi Wife of Binod Prasad Resident of Village- Chhitrauli, Police
Station- Jharokhar, District- East Champaran.
12. Kishmati Devi Wife of Ram Kumar Prasad Resident of Village- Chhitrauli,
Police Station- Jharokhar, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raghav Prasad, Adv.
For the State	:	Mr. Nand Kishore Pd., APP

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 18-03-2026

Heard the parties.

2. The present revision petition has been filed for
setting aside the order dated 15.09.2023 passed by the learned



A.D.J.-XII, East Champaran, Motihari in Sessions Trial No. 538/2023 arising out of Ghorasahan (Jharokhar) P.S. Case No.199/2022 punishable under Sections 447, 341, 323, 504, 379, 307, 324/34 by which the concerned court while exercising power under Section 227 Cr.P.C. has discharged the accused persons/opposite parties from the charge under Section 307 I.P.C. and remanded the case before the court of learned A.C.J.M.-III, Sikarahana at Dhaka to try the accused persons under remaining offences.

3. As per prosecution case, the fardbeyan of the informant was recorded in S.K.M,C.H., Muzaffarpur by Ahiyapur Police Station and it has been mentioned that on account of land dispute the accused persons came at the door of the informant with arms and abused the informant. When the protest was made by the informant, accused/Sambhu Prasad assaulted with *iron rod* on the head and the victim/informant sustained serious injury. On raising alarm, the wife of the informant Phuleshwari Devi and his son Ravi Ranjan Kumar came to protest, then, all the accused persons assaulted with *danda, iron rod, fists* and *slaps*. It is further alleged that accused/Rakesh Kumar pressed the neck of the informant's son/Ravi Ranjan Kumar. Victim/Ravi Ranjan Kumar and



Phuleshwari Devi were treated in PHC, Ghorashahan and the informant was also referred to S.K.M.C.H. Muzaffarpur. It is further alleged that gold chain of the informant's wife was also snatched by the accused Reena Devi.

4. Learned counsel for the petitioner submits that the petitioner is the informant of this case. He further submits that the I.O. has submitted charge-sheet against all the accused persons for the offence under Sections 337, 341, 323, 307, 324, 504 and 34 of the I.P.C. and learned A.C.J.M.-III, Sikarahna took cognizance for all the offences, including Section 307 I.P.C. and the case was committed to Court of Sessions but on 07.07.2023 a petition under Section 227 Cr.P.C. was filed by the accused persons for discharge but the concerned court has illegally come to the conclusion that no offence under Section 307 is made out and by virtue of the order dated 15.09.2023 remanded back the case record to the court of learned A.C.J.M.-III, Sikarahna at Dhaka to try the remaining offences. Learned counsel for the petitioner further submits that the informant/victim was brutally assaulted by the accused persons with the iron rod on the vital part of the body and the informant/petitioner sustained two grievous injuries:-

(i) One is fracture of left hand



(ii) another is fracture of left shoulder joint and the said injuries are evident from the injury report at Annexure-P/2. He further submits that Ravi Ranjan Kumar and Phuleshwari Devi also sustained injuries. He further submits that while passing the order dated 15.09.2023, the concerned Court has not taken into account the material available on record and the concerned court has not considered that Section 307 I.P.C. is made out in the light of aforesaid two injuries and the facts and circumstances of the case. From the above fact, it is clear that offence under Section 307 I.P.C. is made out, but the court has not taken into account the allegation made in the FIR and jumped to the conclusion that no offence is made out under Section 307 I.P.C.

5. Learned counsel for the State submits that the injury report (Annexure-P/2) as well as final report (page-17) clearly denotes that all the injuries are on the non-vital part of the body and it is beyond the imagination that these injuries do not reflect that there was intention on the part of accused persons to kill either the informant or any other person and the concerned court, while deciding the petition under Section 227 Cr.P.C., has taken into account the number of injuries, nature of injuries and the place of injuries under Section 307 I.P.C. In the



light of aforesaid facts and circumstances of the prosecution story, the very version of prosecution story relates with the land dispute and the initial version of prosecution story begins with issue of land. The facts as asserted in FIR is that on account of land dispute, accused side came to the gate of the informant and in the cases of land dispute, facts are generally exaggerated to make the offence graver. There was no repetition of blow on the vital part of the body and the injuries are on the non-vital part of the body which are grievous in nature and other injuries are simple in nature caused by hard blunt substance. The trial court has discussed the sound reasoning and taken into account all the material available on record while deciding the petition under Section 227 of Cr.P.C. and it has been explained that an offence under Section 307 I.P.C is not made out against the accused in the facts and circumstances of the present case. For the purpose of interfering in the revision petition, it is required to be examined whether any illegality, irregularity and impropriety was committed by the concerned court while deciding the petition under Section 227 Cr.P.C. There was nothing on record to entail that any illegality, irregularity and impropriety was committed while deciding the petition under Section 227 Cr.P.C. It has been further submitted that the



concerned court while dismissing the petition under Section 227 Cr.P.C. has discussed all the material available on record and there is no reason to interfere with the order passed by the concerned court and no illegality, irregularity and impropriety was committed by the concerned court while deciding the petition under Section 227 Cr.P.C.

6. To constitute an offence under Section 307 of the IPC, the following ingredients of the offence must be present;

(a. An intention or knowledge relating to commission of murder and

(b. Doing of an act towards it.

7. Thus, the intention or knowledge is the gist to constitute an offence of attempt to murder. In absence of intention or knowledge, which is a necessary ingredient of Section 307 I.P.C., there can be no offence of attempt to murder.

8. In the present case, there is admitted land dispute between the parties and no inference can be drawn that there was any intention on the part of the accused to commit the murder of the informant/petitioner and his family members. The injuries sustained by the informant/petitioner was not on the vital part of the body and it has also come to fore that either individually or collectively they have no intention to cause any



injury which is dangerous to the life. After discussing all the material available on record, it is crystal clear that intention of the accused was not to commit the murder of the informant/petitioner.

9. After hearing the parties concerned and going through the material available on record, it is crystal clear that the concerned court has discussed all the material available on record and has given the sound reasoning and it has been explained that under the facts and circumstances of the present case, no offence is made out under Section 307 I.P.C. The reason recorded by the trial court is that all the injuries are on non-vital part of the body and from the perusal of the FIR, it is crystal clear that the dispute arose on account of land and it cannot be denied that in cases of land dispute facts are generally exaggerated to make the offence graver. The injuries sustained by Ravi Ranjan Kumar and Phuleshwari Devi are simple in nature and the injury report of the informant indicates that the injuries of the informant are not on the vital of the body. There is nothing on record which entails that there was repeated blow on the vital part of the body and, in the present case, there is admitted land dispute between the parties and no inferences can be drawn that there was any intention on the part of accused to



commit the murder of the informant and his family members. Here the trial court has explained and recorded the finding as to why Section 307 I.P.C. is not made out.

10. In view of the above, the contention of learned counsel for the State is quite tenable and sustainable that the concerned court while dismissing the petition under Section 227 Cr.P.C. has discussed all the material available on record and there is no reason to interfere with the order passed by the concerned court.

11. In the light aforesaid facts and circumstances of the case, I am of the of the considered opinion that the order passed by the concerned court is justified and legal and no illegality, irregularity and impropriety is found in the order of the concerned court. Hence, there is nothing on record to differ from the finding of the concerned court.

12. Accordingly, the present revision petition stands dismissed, being devoid of merit.

(Alok Kumar Pandey, J)

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