

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86439 of 2025

Arising Out of PS. Case No.-344 Year-2025 Thana- MOTIHARI MUFASIL District- East
Champaran

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Shail Devi Wife of Virendra Prasad Resident of Village - Dhekhan (Dhekaha),
Laxhman Tola, P.S. - Muffasil Motihari, District - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar, Advocate

For the Opposite Party/s : Mr.Anand Kishore Choudhary, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 16-01-2026 Heard Mr. Sanjay Kumar, learned counsel

appearing on behalf of the petitioner and Mr. Anand Kishore

Choudhary learned APP for the State.

2. The petitioner seeks pre-arrest bail in connection
with Muffasil Motihari P.S. Case No. 344 of 2025 registered for
the offence(s) punishable under Sections
126(2),115(2),118(1),117(2),109,76,352,3(5) of the B.N.S.

3. As per the allegation made in the FIR, petitioner
along with other accused persons, had assaulted the informant
and her family members, causing injury to them. The accused
persons also tried to outrage the modesty of the informant.

4. Learned counsel appearing on behalf of the
petitioner submitted that petitioner is innocent and has falsely



been implicated in the present case. Both the petitioner and informant are own *gotia* and they indulged into free fight due to admitted land dispute relating to ancestral property and for the same, there is case and counter case between the parties. However, on instruction, learned counsel submitted that the matter is purely civil in nature and to buy peace of mind, petitioner wants to settle the dispute amicably outside the Court.

5. Learned APP appearing on behalf of the State submitted that a chance be given to the parties for amicable settlement outside the court.

6. Learned counsel appearing on behalf of the petitioner, on instructions, submitted that the petitioner has agreed to appear before the learned District Court at 10:30 A.M. on 12.02.2026.

7. Heard the parties

8. Having considered the rival submissions made on behalf of the parties, as well as, having perused the allegation made in the FIR from which, it appears that a land dispute between the parties is ongoing and in such circumstances, an opportunity is required to be given to the parties to settle their score amicably outside the Court.

9. In this regard, I find it apt to take note of the



observation made by the Apex Court recently in case of ***Naushey Ali & Ors. Vs. State of Uttar Pradesh & Anr.*** reported in ***(2025) 4 SCC 78***, in para-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 Abdul 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.”

10. The petitioner has willingly desired to appear before the learned District Court on 12.02.2026, so that the matter can be referred to the District Mediation Centre.

11. Learned District Court is directed to take necessary steps to issue notices to the respective parties and upon their appearance, refer the matter before the learned Mediator of the District Mediation Center by fixing a date for appearance of the parties.

12. Learned Mediator of the District Mediation Center



concerned, upon appearance of the parties, shall make his/her best efforts to settle the dispute amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of six months, till then, no coercive action shall be taken against the petitioner in connection with the aforesaid case.

13. In case, the parties resolve their dispute amicably or arrive at a mutual settlement, in light of the law laid down by the Apex Court, the petitioner is required to be released on pre-arrest bail on such terms and conditions as the learned District Court deems it fit and proper.

14. In case of failure on the part of the petitioner to appear on 12.02.2026 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioner shall automatically lose its force.

15. In case, it is deliberate on the part of the informant to reconcile, then in that case, the interim protection granted to the petitioner shall continue and the trial shall proceed in accordance with law.

16. In case, the parties fail to reconcile, then in that case, parties may avail appropriate remedy. Then also, petitioner is directed to be released on pre-arrest bail on such terms and



conditions as the learned District Court deems it fit and proper.

17. With aforesaid direction and observation, the present application stands disposed of.

(Purnendu Singh, J)

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