

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.38 of 2025

Arising Out of PS. Case No.-366 Year-2021 Thana- KHAIRA District- Saran

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1. Sonu @ Sonu alam S/o Naiem Miya Resident of Village -Nagra ,P.S. - Khaira (Nagra), District- Saran (Chapra).
 2. Kesar Ali S/o Mostakim Miya @ Mastkin Miya Resident of Village -Nagra ,P.S. - Khaira (Nagra), District- Saran (Chapra).
 3. Babu Ali S/o Asraf Ali Resident of Village -Nagra ,P.S. - Khaira (Nagra), District- Saran (Chapra).

... .. Petitioners

Versus

1. The State of Bihar
2. Shaba Praveen, Resident of Village -Nagra ,P.S.- Khaira, District- Saran.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	None
For the State	:	Mr. Sucheta Yadav, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 13-07-2026

On call, none appears for the petitioners. However, learned APP for the State is present.

2. The present revision petition has been filed against the order dated 14.11.2024 passed by the learned Exclusive Special Judge (POCSO Act), Saran at Chapra in Sessions Trial POCSO Case No. 86 of 2021 (arising out of Khaira P.S. Case No. 366 of 2021 registered under Sections 376(A) (D), 506/34 of the Indian Penal Code and Sections 4 and 6 of the POCSO Act) whereby and whereunder the application dated 21.09.2024 filed by the petitioners under Section 311 and 233(3) CrPC for recalling of PW-1 and PW-2, informant and her mother, has



been rejected by the learned trial court.

3. From perusal of record, I find that the impugned order has been challenged on the ground that the said order is without consideration on point of law as well as on fact. Learned trial court has failed to consider that on 02.04.2024, matter has already been compromised between the parties. The learned trial court has also not considered the decision of Hon'ble Supreme Court in the case of ***Mannan Shaikh Vs. State of West Bengal, (2014) 13 SCC 59*** wherein it has been held that Section 311 CrPC enables criminal court at any stage of inquiry or trial or other proceeding can recall and re-examine any person already examined. It has also been submitted that learned trial court has also not considered that no injury was found on the victim girl and she was aged about 18-20 years and, therefore, she was major at the time of occurrence and provisions of POCSO Act is not applicable. Thus, it has been submitted that for these reasons, re-examination of victim girl as well as her mother was crucial for a fair trial.

4. On the other hand, learned APP for the State vehemently opposes the present petition. Learned APP submits that the learned trial court has considered the fact that the petitioners earlier filed an application dated 03.04.2024 under



Sections 311 and 233(3) of CrPC, which was rejected by the learned trial court, against which, a revision was preferred before this Court vide Criminal Revision No. 543 of 2024 and the same was disposed of vide order dated 23.08.2024, giving liberty to the petitioners to file afresh petition under Section 311 CrPC on other grounds but no ground has been brought on record before the court of consideration of prayer for recall of the witnesses. The learned APP further submits that charges have been framed under Section 376 of the IPC and the ground of compromise could not be basis for recalling witnesses, as the said offence is not compoundable. The learned APP also submits that the testimonies of the victim and her mother have already been completed after their cross-examinations, and the matter is currently fixed for defence evidence and arguments, as is evident from the impugned order. Therefore, the present revision petition lacks merit and is liable to be dismissed.

5. Having considered the averments made in the revision petition and the submissions made by the learned APP for the State, I find that the petition for the recall of prosecution witnesses was filed on the ground that a compromise had taken place between the parties, and for this reason, the victim and her mother should be recalled for further cross-examination. From



perusal of the impugned order, I find that the learned trial court considered this aspect and observed that it was a contested case in which the evidence of the witnesses had already been recorded and their cross-examination completed. Since the offence is not compoundable, the compromise has no bearing on the merits of the case. Therefore, finding no illegality, infirmity, or impropriety in the impugned order dated 14.11.2024, the same is hereby affirmed.

6. Accordingly, the present revision petition stands dismissed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.07.2026
Transmission Date	14.07.2026

