IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Revision No. 1553 of 2023

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1. Uttam Yadav @ Dara @ Uttam Kumar Yadav @ Uttam, aged about 28 years, son of Baliram Yadav, Resident of Sovanpur Bhatta, P.O.-Sahibganj, P.S.-Muffasil, District-Sahibganj
2. Gautam Yadav @ Gabbar @ Gautam Kumar Yadav @ Gautam, aged about 26 years, son of Baliram Yadav, Resident of Sovanpur Bhatta, P.O.-Sahibganj, P.S.-Muffasil, District-Sahibganj
3. Bina Devi, aged about 25 years daughter of Baliram Yadav, Resident of Sovanpur Bhatta, P.O.-Sahibganj, P.S.-Muffasil, District-Sahibganj
4. Chanmati Devi, aged about 69 years, wife of Baliram Yadav, Resident of Sovanpur Bhatta, P.O.-Sahibganj, P.S.-Muffasil, District-Sahibganj
5. Most. Shanti Devi @ Masomat Shanti Devi @ Most. Shenti Devi @ Shanti Devi, aged about 79 years, wife of Late Ramu Yadav, Resident of Sovanpur Bhatta, P.O.-Sahibganj, P.S.-Muffasil, District-Sahibganj

……Petitioners

Versus

1. The State of Jharkhand
2. Puspa Devi W/o-Bali Raj Yadav, r/o- Sovanpur Bhatta, P.O., P.S. & District-Sahibganj …. Opp. Parties

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For the Petitioners : Mrs. J. Mazumdar, Advocate
For the State : Mr. Vishwanath Roy, Spl. P.P.
For the O.P. No.2 : Mr. Sabasanchi, Advocate

PRESENT
CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
ORDERS

CAV On 30.10.2026 **Pronounced on 20/11/2026**

1. Heard Mrs. J. Mazumdar, learned counsel for the petitioners and learned Spl.P.P. assisted by learned counsel for the opposite party No.2, Mr. Sabyasanchi.

2. The present criminal revision is directed against the order dated 05.10.2023 passed by learned Additional Sessions Judge-I, Sahibganj in

Misc. Criminal Application No.391 of 2023 (S.T. No.235 of 2022), whereby and whereunder, an application for discharge of the petitioners under section 227 of Cr.P.C. corresponds to Section 250 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) has been rejected.

3. It is pertinent to mention at the very outset that I.A. No.10631 of 2026 was filed on behalf of the petitioners for adding relief(s) challenging the order of framing charge by the concerned court during pendency of this revision, which has also been allowed on 07.08.2026.

4. Learned counsel for the petitioners has submitted that the FIR was lodged against eight accused persons but the police after thorough investigation submitted charge-sheet on 30.03.2019 against the accused persons, namely, Balram Yadav, Mithu Yadav and Dinesh Yadav and the rest of the accused persons were not sent for trial due to lack of evidence but the learned court of Judicial Magistrate took cognizance of offences under sections 147, 148, 149, 341, 343, 323, 307, 504 read with section 34 of IPC against all the named accused persons and committed the case to the court of Sessions. It is further submitted that prior to the institution of this case for the occurrence of same date and time, Sahibganj P.S. Case No.68 of 2017 has been instituted by the petitioner, Mithu Yadav against the informant party. Thereafter, as a counterblast, the present FIR was instituted against the petitioners. It is further submitted that learned trial court has failed to consider that even if the entire allegations and the material collected during investigation

may be taken to be true, no offence under section 307 of IPC is constituted in this case. Other offences are triable by the Magistrate First Class. Therefore, learned Additional Sessions Judge should have remitted this case to the court of CJM as it was not exclusively triable by the court of Sessions under the provision of 228 Cr.P.C corresponds to Section 251 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). It is further submitted that there is no specific overt act against each of the petitioners rather they have been roped in this case in a mechanical manner with the aid of section 149 of IPC, which is not attracted in this case as per charge-sheet submitted by the police. It is further submitted that no incriminating articles have been recovered showing culpability of the petitioners. The injuries sustained by the injured persons are opined to be simple in nature and no injury has been inflicted on the vital parts of the body. Therefore, there is no sufficient material to frame charge under section 307 of IPC. It is further submitted that petitioner Nos.4 and 5 are very old women, who have been falsely dragged in this case having no capacity to hold a weapon to assault anyone due to their ill health. Petitioner No.3 was also not present on the date rather she was residing at her matrimonial home and has just got married. Petitioner Nos.1 and 2 are serving in the Indian Army.

5. On the other hand, learned Spl.P.P assisted by learned counsel for the opposite party No.2, Mr. Sabayasanchi controverting the aforesaid

contentions raised on behalf of the petitioners has submitted that there is case and counter case between the parties and other family members. Therefore, plea of non-presence of some of the accused persons (petitioners) cannot be accepted at this stage of proceeding. The plea of the petitioners that there are general and omnibus allegations and old women have been implicated in this case are also subject matter of trial and cannot be a ground for discharge. It is further submitted that the injuries sustained by the members of opposite party are found to be grievous and on vital part of the body. One of the injured, Sandeep Yadav has sustained head injury and his C.T. scan shows that there was fracture on left parietal and frontal ethmoid bone and swelling on scalp frontal parietal region. Guddu Yadav has also sustained head injury and his CT scan shows depressed fracture at right parietal bone and defuse by lateral scalp swelling. Bansi Yadav has also sustained head injuries and in C.T. scan depressed fracture was found on right parietal area of boney calvarium. Mohan Kumar Yadav has also sustained injuries on his left wrist and fracture was seen in the distal shaft of the radius. Bali Raj Yadav has also sustained head injury and in his C.T. scan, swelling was found on scalp at left parietal region. It is further submitted that petitioners' party of this case has sustained only simple injuries and some cut injuries. Learned trial court has very wisely and aptly and considered the injury report of the injured persons of this case and the materials showing their participation in the alleged offence has rightly

rejected the application for discharge and the order of framing charge also does not require any interference. Most of the points raised on behalf of the petitioners are their probable defence, which cannot be considered at the present stage of proceeding rather to be proved during trial, hence, this revision has no merits and fit to be dismissed.

6. I have gone through the record along with the impugned orders in the light of contentions raised on behalf of both side.

7. It appears that the dispute arose between the parties due to filling of soil in the land allegedly belonging to the informant Pushpa Devi by the accused persons. It is alleged that both the parties started uttering abusive words against each other including the female folk of the family armed with various weapons and exchange of assault took place between the parties and the accused persons also started damaging the house of the informant assaulting her husband and son. It is alleged that the accused persons also robbed Rs.46,000/- cash and gold ornaments by breaking box lying in the house. After investigation, police submitted charge-sheet against the accused persons under sections 147, 148, 149, 341, 342, 323, 504 and 34 of IPC. Learned court of Judicial Magistrate took cognizance of offences under sections 147, 148, 149, 341, 343, 323, 307, 504 read with section 34 of IPC and the case was committed to the court of Sessions. It further transpires that learned trial court considering the application under section 227 Cr.P.C corresponds to Section 250 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)

has taken into account injuries sustained by the injured persons of this case, namely, Guddu Yadav, Bansi Yadav, Mohan Kumar Yadav, Baliraj Yadav and Sandip Yadav. All the injured have sustained injuries on vulnerable part of the body like head and nose caused by hard and blunt substance. Learned trial court has firm opinion about the *prima facie* materials constituting the offence under section 307 of IPC along with other allied offences. Learned trial court has also quoted several citations of Hon'ble Apex Court. Learned trial court has also opined that at the stage of framing charge, the court is not required to hold an elaborate enquiry only *prima facie* case has to be seen. It is also settled principle of law that at the time of framing charge, the materials collected during investigation can alone be considered and the probable defence, truth or falsity of the case are subject matter of trial to be decided on the basis of evidence led by the parties.

8. The Hon'ble Apex Court in the case of ***State of Bihar vs Ramesh Singh (1977) 4 SCC 39*** has held that "it would be clear that at the beginning and the initial stage of the trial the truth, veracity and effect of the evidence which the Prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused. It is not obligatory for the Judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be

finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under section 227 or section 228 of the Code. At that stage the Court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. The presumption of the guilt of the accused which is to be drawn at the initial stage is not in the sense of the law governing the trial of criminal cases in France where the accused is presumed to be guilty unless the contrary is proved. But it is only for the purpose of deciding prima facie whether the Court should proceed with the trial or not. If the evidence which the Prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial. An exhaustive list of the circumstances to indicate as to what will lead to one conclusion or the other is neither possible nor advisable. We may just illustrate the

difference of the law by one more example. If the scales of pan as to the guilt or innocence of the accused are something like even at the conclusion of the, trial, then, on the theory of benefit of doubt the case is to end in his acquittal. But, if, on the other hand, it is so at the initial stage of making an order under section 227 or section 228, then in such a situation ordinarily and generally the order which will have to be made will be one under section 228 and not under section 227".

9. In view of the above discussion and reasons, I do not find any valid reason for interference in the impugned orders passed by learned trial court and no merits in this revision, which stands **dismissed**.

10. Pending I.A(s), if any, is also disposed of, accordingly.

11. Let a copy of this order be sent to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

High Court of Jharkhand, Ranchi
Date:- 20 /11 /2026
Pappu/-N.A.F.R.
Uploaded on 20 /11 /2026