

COURT OF PRABHAT KRISHNA, ADDITIONAL SESSIONS JUDGE-IV, BHAGALPUR

Criminal Revision No.-31/2026

Kanhaiya Poddar Vs. State of Bihar & Others

Kanhaiya Poddar S/o Late Ramdhari Poddar..... Petitioner

Vs

1. State of Bihar

2. Rajiv Kumar Poddar

3. Vikash Kumar Poddar

4. Rakesh Kumar Poddar.....Opposite Parties.

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[Criminal Revision against order dated 12.03.2026 passed by the learned Court of Ms. Saloni Kumari, JMFC, Bhagalpur, in Complaint Case No. 1993 of 2024.]
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Counsel for the Petitioner- Sri Shiv Shankar Sharma, Ld. Advocate

Counsel for the O.P. No. 1/State - Sri Binod Kumar Sah, Ld. Addl. P.P.

Counsel for the O.P. No. 2 &3 - Sri Lal Mani Yadav, Ld. Advocate

Counsel for the O.P. No. 4 - Sri R.K. Singh, Ld. Advocate
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19th day of August, 2026.

**PRESENT :- PRABHAT KRISHNA
IVth ADDL. SESSIONS JUDGE
BHAGALPUR**

ORDER

1. This Criminal Revision application, filed u/Ss 438 and 440 of the B.N.S.S. on behalf of the petitioner/complainant, has been preferred against the order dated 12.03.2026 passed by the learned Court of Ms. Saloni Kumari, JMFC, Bhagalpur, in Complaint Case No. 1993 of 2024 whereby and whereunder the learned Judicial Magistrate was pleased to dismiss said Complaint Case u/S 226 of the B.N.S.S. (wrongly mentioned as u/S 203 of the Cr.P.C.).

2. The brief facts, which may be adverted to for the disposal of this criminal revision application, is that revisionist/complainant Kanhaiya Poddar filed a Complaint Case bearing No. 1993/2024 alleging therein, in short, that he earns his livelihood by running small business of incense stick in his own house which is situated adjacent to the house of accused persons who are O.P. no. 2 to 4 herein. It is alleged that accused persons had been putting pressure upon the complainant to sell his house to them but the complainant kept on refusing on which they used to torture the complainant. On 28-11-2024 at about 01:00 pm while complainant was engaged in manufacturing incense stick in his house, all the three named accused persons intruded

into his house using abusive words and told to pay Rs. 10,000/- per month as extortion money for running incense stick business in his house till he sells his house to them otherwise his business will be closed down. On refusal, accused persons assaulted him and when complainant's wife intervened, they caught hold of her hair and pushed her down. While retreating, the accused persons took away cash Rs. 6,000/- from a box kept in the house and also issued threatening to closed down his business if extortion money is not paid by him.

On the basis of the said complaint petition, S.A. of the complainant, evidences of inquiry witnesses namely Reena Devi and Suraj Kumar, the learned Court below dismissed the complaint petition on merit u/S 203 of the Cr. P.C. vide order dated 12-03-2026 which is impugned order herein.

3. Being aggrieved by and dissatisfied with the impugned order, revisionist/complainant has preferred the present Criminal Revision.

4. Heard learned counsels for the revisionist and O.P. no. 2 to 4 as well as learned Addl. P. P. for the State and perused the case record.

5. Learned counsel for the petitioner/complainant submits that the order impugned is wrong, illegal, arbitrary and without application of judicial mind. He submitted that though the complainant and witnesses supported the occurrence but the learned court below illegally dismissed the complaint case and prayed to set aside the impugned order.

6. Per contra, learned Addl. P.P. for the State assisted with learned counsels for the O.P. no. 2 to 4 submitted that the learned Court below has rightly passed the impugned order as per materials available on the record, so it does not warrant any interference. Learned Addl. P. P. also submitted that there is no illegality in the impugned order.

7. Perused the lower Court record as well as impugned order from which it transpires that the complainant has filed the instant complaint case against three accused with the allegations that the accused persons intruded into his house, abused and assaulted him and when his wife intervened, she too was assaulted and misbehaved and while retreating, accused persons not only committed theft but also demanded extortion money and issued threatening to close down his business.

8. While holding an inquiry u/S 202 Cr.P.C./225 of the BNSS, learned Magistrate

is required to take a broad view and prima facie case. Further, at the stage of issuing process to the accused, the Magistrate has to be satisfied whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction can be determined only at the trial and not at the stage of inquiry. At this stage, the Magistrate is not debarred from going into the merits of the evidence produced by the complainant. But, the object of such consideration of the merit of the case, at this stage, could only be to determine whether there are sufficient grounds for proceeding further or not. The mere existence of some grounds which could be material in deciding whether the accused should be convicted or acquitted does not generally indicate that the case must necessarily fail. It is specifically provided under Section 223 of the BNSS that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard.

Now coming to the case at hands, the lower court record shows that the learned Court, after closing of inquiry witness, issued notice to named accused persons in the light of Section 223 of the BNSS in compliance of which the accused persons appeared and filed various documents marked as annexure 1 to 7 through a list of document. From perusal of these documents, it transpires that accused persons made complaint to various authorities against the manufacturing of incense stick by the complainant in his house which is situated adjacent to the house of accused persons and the matter was inquired into by the authorities by visiting the house of complainant. Complainant has also filed copy of a report submitted by B.D.O., Jagdishpur to Additional Collector, vide letter no. XXI-1/24-30 dated 09.01.2025, in which it is mentioned that the sound of machine used in manufacturing the incense stick was not producing high sound. On the contrary, its sound was found lower than other home appliances. All it goes to show that accused persons were getting disturbed due to manufacturing of incense stick by the complainant in his house which is situated adjacent to the house of accused persons. These are, in fact, the grounds which could be material in deciding whether the accused should be convicted or acquitted but it does not indicate that the case must be dismissed. Plea of false implication, inquiry witnesses being related one, absence of independent witness and

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harassment to accused persons are nothing but a kind of defence which cannot be looked into at this stage.

10. The revisionist is, therefore, right in contending that the complaint should not have been dismissed in this case. Accordingly, and in view of the above, this criminal revision is hereby ***allowed*** and the impugned order dated 12.03.2026 passed by the learned Court of Ms. Saloni Kumari, JMFC, Bhagalpur, in Complaint Case No. 1993 of 2024 is hereby set aside. Learned Court below is hereby directed to make further inquiry and pass an order afresh in the light of the observations made hereinabove.

(Dictated)

Sd/-

(Prabhat Krishna)

Addl. Sessions Judge-IV

Bhagalpur

19.08.2026

Date of judgment/order	19.08.2026
Date of Reserving judgment/order	-
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