

In the Court of Dipankar Pandey, Principal Sessions Judge, Bhagalpur, Cri. Revision No. 55/2024, Bhikhari Yadav & five others Vs. State of Bihar, order dated 05-06-2026.

**IN THE COURT OF PRINCIPAL SESSIONS JUDGE, BHAGALPUR**

**Criminal Revision No. 55 of 2024**

(Arising out of G.R. No. 2940 of 2019, Shahkund P.S. Case No. 176 of 2019)

1. Bhikhari Yadav, aged about 45 years
  2. Sanjit Kumar Yadav, aged about 36 years  
Both sons of Jyoti Yadav
  3. Soti Yadav, aged about 70 years  
S/o Late Chhedi Yadav
  4. Pappu Yadav, aged about 40 years
  5. Pankaj Yadav, aged about 45 years  
Both sons of Soti Yadav
  6. Ranjit Yadav, aged about 35 years  
S/o Jyoti Yadav
- All R/o Vill-Kishanpur, P.S. Shahkund, District- Bhagalpur

.....Revisionists/Petitioners

Versus

.....Opposite Party

1. State of Bihar

Counsel for the Revisionists/Petitioners :- Sri Pramod Kr. Singh, Ld. Advocate.  
For the Opposite Party :- Sri S. N. P. Sah, Public Prosecutor.

Date of Order	Order with Signature of the Court
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05-06-2026	<ol style="list-style-type: none"><li>1. The present criminal revision has been preferred under Section 397 of the Code of Criminal Procedure challenging the legality and propriety of the order dated 27.01.2021 passed by the learned Sub Divisional Judicial Magistrate, Bhagalpur in G.R. Case No. 2940 of 2019 arising out of Shahkund P.S. Case No. 176 of 2019, whereby and whereunder cognizance of the offences punishable under Sections 341, 323, 324, 307, 447, 504, 506 read with Section 34 of the Indian Penal Code was taken against the revisionists and summons were directed to be issued against them.</li><li>2. Being aggrieved by and dissatisfied with the aforesaid order dated 27.01.2021 passed by the learned S.D.J.M., Bhagalpur, the present criminal revision petition has been preferred by the revisionists praying for setting aside of the impugned order.</li><li>3. Heard learned counsel for the petitioners, learned P.P for the State and perused the Trial Court records.</li></ol>



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4. The prosecution case, in brief, is that informant Vikas Kumar Yadav submitted a written application before Shahkund O.P. alleging therein that on 03.07.2019 at about 10:00 A.M., measurement of the disputed land was being carried out by the Ameen. It was alleged that during the course of measurement, the land was found in possession of the Gotiya (agnate) of the informant, which was not accepted by the accused persons. While the measurement report was being prepared by the Ameen, all the accused persons namely, 1. Bhikhari Yadav, 2. Sanjit Kumar Yadav, 3. Soti Yadav, 4. Pappu Yadav, 5. Pankaj Yadav and 6. Ranjit Yadav arrived there, started abusing the informant and assaulted him. It was further alleged that accused Ranjit Yadav assaulted the informant with a knife causing injuries to him. The accused persons further threatened the informant that if he instituted any case against them, he would be put to death. On the basis of the said written application, Shahkund P.S. Case No. 176 of 2019 was instituted under Sections 341, 323, 324, 307, 447, 504, 506/34 of the Indian Penal Code against the accused persons.
5. Learned counsel appearing on behalf of the revisionists submitted that the learned Trial Court has illegally taken cognizance under Sections 341, 323, 324, 307, 447, 504, 506/34 IPC without properly appreciating the materials available on record. It has been submitted that the injury report discloses only simple injuries as a sharp cut injury on the left shoulder and another sharp cut injury on the left hand and no injury was found on any vital part of the body so as to attract the ingredients of Section 307 IPC. It has further been submitted that the Investigating Officer, after investigation, found no case under Section 307 IPC and accordingly submitted charge-sheet against the revisionists under Sections 341, 323, 324, 447, 504, 506/34 IPC. Learned counsel further submitted that the supervision note also disclosed that no offence under Section 307 IPC was made out against the revisionists. It has also been contended that the allegation of assault by knife has specifically been attributed only to accused Ranjit Yadav and no overt act has been alleged against the remaining revisionists. It has further been argued that the occurrence arose out of a dispute relating to measurement of land and the matter is essentially civil in nature. Learned counsel further



In the Court of District & Sessions Judge, Bhagalpur

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submitted that all the independent witnesses examined during investigation made statements contrary to the allegations made in the F.I.R. and did not support the case under Section 307 IPC. It has also been submitted that the learned Magistrate failed to consider the injury report, supervision note and other materials available on the record and mechanically took cognizance under Section 307 IPC without assigning any reason. It has further been submitted that the learned Magistrate passed the impugned order without proper application of judicial mind and without recording satisfaction as to how the ingredients of Section 307 IPC were attracted in the facts and circumstances of the case. Learned counsel therefore submitted that the impugned order suffers from illegality, impropriety and material irregularity and is fit to be set aside in exercise of revisional jurisdiction by this Court. Accordingly, it has been prayed that the impugned order dated 27.01.2021 be set aside.

6. On the other hand, learned P.P. for the State opposed the revision petition and submitted that the learned trial court passed the impugned order after considering the materials available on record and finding prima facie case against the revisionists. It has been submitted that at the stage of cognizance, the court is only required to see whether sufficient materials exist for proceeding against the accused persons and a detailed appreciation of evidence is not permissible. Learned P.P. further submitted that the impugned order does not suffer from any illegality, impropriety or jurisdictional error warranting interference by this Court in revisional jurisdiction. Accordingly, it has been prayed that the revision petition being devoid of merit is fit to be dismissed.

**Findings**

7. Having heard learned counsel for the revisionists and learned P.P. for the State and upon perusal of the lower court records, this Court finds that the prosecution case arises out of a dispute relating to measurement of land. The allegation of the informant is that while the land was being measured by the Ameen, the accused persons arrived there, started abusing and assaulting him and during the occurrence accused Ranjit Yadav assaulted him by means of a knife causing injuries.

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8. From perusal of the F.I.R., the re-statement of the informant Vikas Kumar Yadav recorded in paragraph-3 of the case diary and the statements of witnesses Janardhan Yadav, Bhola Singh and Lakhan Singh recorded in paragraphs-9, 10 and 11 of the case diary respectively, it appears that they have supported the prosecution case regarding the alleged occurrence constituting offences in which cognizance has been taken by the learned court below. Thus, prima facie materials appear on record supporting the prosecution version regarding the occurrence and participation of the accused persons therein.
9. From perusal of the injury report of the informant, it appears that the informant sustained three sharp cut wounds, two on the left shoulder region and one on the left hand. The doctor has opined that the injuries were caused by a sharp cutting substance and were simple in nature. The injury report, therefore, prima facie corroborates the prosecution case to the extent that the informant sustained injuries during the occurrence allegedly caused by a sharp cutting weapon.
10. Learned counsel for the revisionists has mainly contended that the injuries sustained by the informant were simple in nature and that the Investigating Officer as well as the Supervising Officer did not find sufficient materials constituting an offence under Section 307 IPC. It has further been argued that the allegation of assault by knife has specifically been attributed only to accused Ranjit Yadav and no overt act has been attributed to the remaining revisionists.
11. So far as the aforesaid submissions are concerned, the same relate to appreciation of evidence and determination of disputed questions of fact. At the stage of cognizance, the learned Magistrate is only required to ascertain whether prima facie materials are available for proceeding against the accused persons and not whether the prosecution case would ultimately result in conviction.
12. In the case of **Sonu Gupta Versus Deepak Gupta & others, reported in (2015) 3 SCC 424**, the Hon'ble Apex Court has held that "At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to



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find out whether prima facie case has been made out for summoning the accused persons. At this stage, the Magistrate is not required to consider the defence version or materials or arguments nor is he required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials will lead to conviction or not."

13. From the above mentioned judgment of the Hon'ble Supreme Court, it is crystal clear that at the stage of taking cognizance and issuance of process, the learned Magistrate is only required to see whether prima facie materials are available for proceeding against the accused persons and the defence version of the accused cannot be considered at such preliminary stage.
14. From perusal of the impugned order dated 27.01.2021, it appears that the learned trial court considered the FIR, charge-sheet, case diary before taking cognizance. The learned Magistrate specifically recorded his satisfaction regarding existence of prima facie materials against the accused persons and thereafter took cognizance of the offences under Sections 341, 323, 324, 307, 447, 504, 506/34 IPC.
15. Merely because the injuries were opined to be simple in nature or because the revisionists dispute the applicability of Section 307 IPC cannot by itself be a ground for interference in revisional jurisdiction at this preliminary stage. Whether the ingredients of Section 307 IPC are ultimately established against the accused persons is a matter which can only be adjudicated during trial upon appreciation of evidence adduced by the parties.
16. The revisional jurisdiction of this Court is confined to examining the correctness, legality and propriety of the impugned order. Unless the impugned order suffers from patent illegality, material irregularity or jurisdictional error, interference by the revisional court is not warranted.
17. Upon overall consideration of the F.I.R., re-statement of the informant, statements of the witnesses, injury report and the impugned order passed by the learned trial court, this Court finds that sufficient prima facie materials existed before the learned Magistrate to pass impugned order dated 27-01-2021 for proceeding against the accused persons.
18. Having regard to the facts and circumstances of the case and upon perusal

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of the entire record, this Court does not find any illegality, impropriety or jurisdictional error in the impugned order dated 27.01.2021 passed by the learned S.D.J.M., Bhagalpur in G.R. Case No. 2940 of 2019 arising out of Shahkund P S. Case No. 176 of 2019 requiring interference by this Court.

19. Accordingly, this Court finds no merit in the present criminal revision petition and the same is liable to be dismissed. Consequently, the criminal revision petition stands **dismissed**. The impugned order dated 27-01-2021 passed by the learned SDJM, Bhagalpur in G.R. Case No. 2940 of 2019 is hereby **affirmed**. Let the trial court record be sent back forthwith along with a copy of this order.

(Dipankar Pandey)  
Principal Sessions Judge.

Date of Judgment/Order	
Date of Reserving Judgment/Order	
Uploading Date	
Uploaded by	