

IN THE COURT OF SESSIONS JUDGE

**Buxar, Bihar 802101
Distt. - Buxar, BIHAR.**

Criminal Appeal No. 03 of 2025
[Arising out of Murar P.S. Case No. 66/2015]

Present: Kajal Jhamb,
Sessions Judge, Buxar.

1. Poonam Kumari @ Poonam Devi, aged about 30 years, D/o Akhilesh Pandey
R/o Village – Theri Pandeypur, Police Station- Murar, District- Buxar
At present- W/o Saroj Tiwari, R/o Village – Ekawani, Police Station-Dumraon, District-
Buxar

..... Appellants

versus

1. State of Bihar
2. Shiv Jee Ram, aged about 35 years, S/o Puranwasi Ram,
R/o Village – Theri Pandeypur, Police Station- Murar, District- Buxar

..... Respondents

Learned Counsel for Appellants : Sri Devashish Singh, Ld. Adv.
Learned. A.P.P. for the State (Respondent. No. 1) : Sri Anand Mohan Upadhya
Learned Counsel for Respondent No. 2: Sri Manoj Kumar Thakur, Ld. Adv.

Date of Judgment: 29th July, 2026

JUDGMENT

1. The present is a Criminal Appeal no. 03/2025 filed against the impugned order dated 30.05.2023 passed by the Court of Learned A.C.J.M-IV, Buxar in Murar P.S. Case No. 66/15 titled “State Vs. Shivjee Ram”. By passing the impugned order, the Learned Court below acquitted the accused/Respondent No. 2 Shiv Jee Ram of the charges u/s 341, 323, 504, 506, 354 of IPC due to lack of evidence and discharged his bailors from the liabilities of bail bonds. Aggrieved by the order, the victim (informant of the case) namely Poonam Kumari @ Poonam Devi has filed the present Criminal Appeal.
2. Brief facts of the case are that the Appellant Poonam Kumari @ Poonam Devi filed a written complaint in Murar P.S. alleging therein that on 25.10.2015 at 07:10 A.M, while

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she was returning after attending the nature's call, his villager Respondent No. 2/Shiv Jee Ram caught her hand and tried to outrage her modesty.

3. On the basis of the written complaint, Murar P.S. Case No. 66/2015 dated 25.10.2015 got registered u/s 341, 323, 504, 506, 354 IPC against the accused/Respondent No. 2 Shiv Jee Ram. After investigation, the Investigating Officer submitted charge-sheet no. 03/2016, dated 20.01.2016 u/s 341, 323, 504 506, 354 of IPC against the Respondent No. 2. On the basis of chargesheet, the Learned Trial Court took cognizance of offence u/s 341, 323, 504 506, 354 of IPC on 29.02.2016 and directed issuance of process against the Respondent Shiv Jee Ram. The Court framed charge against the Respondent No. 2 on 03.11.2018 and the case got fixed for evidence. During the stage of evidence, B.Ws and N.B.Ws were issued against the witnesses but none of the witness appeared before the Court. On 22.03.2023, the prosecution was given one last opportunity to produce witnesses for recording of evidence. But, the prosecution failed to discharge its duty. Due to lack of evidence, on 30.05.2023, the Learned Trial Court acquitted the Respondent No. 2 of the charge u/s 341, 323, 504 506, 354 of IPC and discharged his bailors from the liability of bail bonds.
4. The contention of the appellant is that the order passed by the Learned Court below is neither in accordance with law nor in accordance with the facts of the case. The Learned Trial Court has passed the impugned/order judgment without applying its judicial mind. No summons were served to the Appellant during course of trial and no any service report was received regarding the service of summons. Similarly, even the B.Ws, and N.B.Ws were not served to the Appellant. The Learned Trial Court closed the stage of prosecution evidence without ensuring the due service of summons/warrants to the witnesses. It is submitted that the appellant-victim has always been willing to give her evidence and to produce witnesses in support of the case but she was not given sufficient opportunity. As the order passed by the court is arbitrary and illegal, it deserves to be set aside.
5. Opposing this criminal appeal, learned A.P.P. on behalf of the State and Learned Counsel on behalf of Respondent No. 2 submit that there is no illegality in the impugned order passed by the Ld. court below. The order is a reasoned order and has been passed on the basis of material available on record.

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6. Heard the learned counsels and perused the record. The perusal of record shows that the Learned Court framed charge in the case on dated 03.11.2018. After framing the charge, it directed issuance of notice/summons to the witnesses. On 21.09.2019, the summons were issued to the witnesses, but the service report of the same was not received. When no witness appeared, the Learned Trial Court directed issuance of B.Ws on witnesses on 02.11.2021. Again, neither the witnesses of the case appeared nor the service report of B.Ws was received. The Court, then proceeded to issue N.B.Ws against the witnesses on 12.01.2022. Even after the issuance of N.B.Ws, no witness was produced before the Court. Without waiting or calling for service report regarding any of the process issued, the Learned Trial Court gave last opportunity to prosecution to produce evidence. And finally on 30.05.2023, the Court passed the order acquitting Respondent No. 2 Shiv Jee Ram of charge u/s 341, 323, 504 506, 354 of IPC, due to lack of evidence. In the light of material available on record, the contention of the appellant cannot be rejected.
7. In view of the abovementioned facts and circumstances of the case and considering the submissions of Learned Counsels, the present Criminal Appeal is hereby **allowed** and the order dated 30.05.2023 passed by the Learned Trial Court, Buxar is hereby set aside. The record is remanded to the Learned Trial Court for re-trial of the case with a direction to the Appellant (victim) to cooperate the learned Court in quick disposal of the case.

The office is directed to send a copy of this judgment along with LCR to the Ld. Court below at once.

The judgment is pronounced in the open court in the presence of both the parties.

Dictated and corrected by me

Sd/-

(Kajal Jhamb)
Sessions Judge, Buxar
Dated 29.07.2026

Sd/-

(Kajal Jhamb)
Sessions Judge, Buxar
Dated 29.07.2026