

In the Court of Additional Sessions Judge I, Darbhanga Present : Neeraj Kumar II, BSJS, BR00552 Criminal Revision/CIS – 95/2025 Under sections 438,440 of the BNSS Against the order dated 09.05.2025 passed by Sri Ratnesh Manjhi, Learned JMFC in Complaint 955/2024 Priyanka Kumari vs The State of Bihar and another			
Date of Judgment – Wednesday, The 01 st day of July, 2026			
Revisionist/ Accused	R1	Priyanka Kumari, aged about 31 Years, wife of Binod Kant Chowdhary @ Sri Kant Jha, resident of Village Dhaka Jamua, District East Champaran, At present Mohalla K. M. Tank, PS Laheriasarai, District Darbhanga	
	Represented By	Sri Dinbandhu Jha, Learned Advocate	
Versus			
Opposite Parties	OP1	State of Bihar	
	Represented By	Sri Lalan Kumar, Learned APP	
	OP2	Amit Raj, aged about 43 Years, son of Vijay Kumar Sinha, resident of Balbhadrapur, PS Laheriasarai, District Darbhanga	
	Represented By	Ms. Katyayini, Learned Advocate	
Judgment			
1. Having been aggrieved and dissatisfied with the order dated 09/05/2025 passed in connection with Complaint case 955/2024, Instant revision was filed by the revisionist. By this order the Learned Judicial Magistrate summoned the revisionist to face trial for offence under section 138 of the Negotiable Instruments Act.			
Argument by the Sides			
2. Initiating the argument, the Learned Counsel of the revisionist submitted that the impugned order was ex facie contrary to law, unjust, erroneous, illegal, improper, irregular, incorrect and perverse, if allowed to stand, grave injustice would be caused to the revisionist. It was submitted that the impugned order was non-est in the eyes of law. It was submitted also that the Learned Judicial Magistrate First Class Darbhanga didn't consider the complaint petition and the witnesses properly, without applying judicial mind and relevant provisions of law and summoned the revisionist. It was submitted that no offence under section 138 Negotiable Instrument Act was made out against the revisionist. It was lamented that the present process was the abuse of the process of law and the Learned court didn't exercise caution. It was submitted further that the Learned Magistrate committed gross error of			
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law and did not consider the materials available on the case record. It was also submitted that the order was passed on conjecture and surmises. For that the cognizance order dated 09.05.2025 is based upon surmises and conjecture and no reason was assigned. It was also submitted that ignoring the complaint version that the co-accused had issued the aforesaid cheque 128443 of Rs. 10,00,000/- and another cheque no. 128444 of Rs. 10,00,000/- for the account no. 3519514732 in Dhaka Branch, Central Bank of India, the cognizance was taken against R2 though the said cheques had not been issued by her. It was argued that name of the Complainant was wrongly written as Amit Ram, date mentioned as 22.08.204 in place of 22.08.2024 and further that the order was passed in the margin of the order sheet and cut without initials. It was prayed to set aside the impugned order .

3. Learned APP on behalf of the OP 1, submitted that there was no illegality and irregularity in the impugned order and prayed to reject the revision.
4. Vehemently opposing the argument of R1, the learned counsel of OP 2 lamented the revisionist of abusing the process of law. The learned counsel submitted that the materials available on record clearly showed the ingredients of the offence under section 138 Negotiable Instrument Act against the revisionist. It was submitted that the revisionist failed to show any ground as to why the revisionist court should interfere in the impugned order. It was argued further that the revisionist misled the Court by saying that R1 didn't sign the cheques. The Learned counsel submitted that the revision petition was devoid of merit and prayed to dismiss the same.

Point for determination

5. In light of the rival submissions of both sides, the main point for determination before me is whether the order dated 09/05/2025 passed in connection with Complaint case 955/2024 suffers from any incorrectness, illegality or impropriety and it requires interference by this Court or not ?

Finding

6. It would be beneficial to have a look over the complaint case -

Case of OP2 according to the complaint petition dated 19/07/2024 in brief is that upon learning about the accused persons selling the land, OP2 went to the accused persons and expressed his desire in purchasing the house and

negotiated. The deal was finalized for Rs. 25,00,000/- out of which Rs 20,00,000/- was given as advance and an agreement was made that within one month, after paying rest Rs 5,00,000/- the accused persons would execute the land registration in favor of OP2. OP2 went to the accused persons with the rest amount and requested them to complete the land registration, but the accused persons made excuses. Accused 2 Binod gave a cheque of Rs. 10,00,000/- bearing 128443, and another cheque of Rs. 10,00,000/- bearing 128444, linked to account number 3519514723 dated 11.06.2024 from the Central Bank of India, Dhaka Branch. When OP2 deposited these into the Laheriasarai branch of Punjab National Bank, it was discovered that the accused persons had already closed the said account before. When OP2 went to the house of the accused persons and protested, then the accused persons assaulted OP2 used abusive and defamatory language, stating that they would not refund the money, challenging the complainant to take any action he deemed fit, and further extended threats to falsely implicate him in fabricated legal cases. Subsequently, on 21.06.2024, a legal notice was served but the accused persons failed and refused to clear the outstanding dues.

Proceedings before the Learned Trial Court

7. An Enquiry was initiated on the basis of the complaint. The complainant got his solemn affirmation recorded and produced inquiry witnesses Sweta Kumari and Sangeeta Sinha and also produced the relevant documentary evidence. After completion of the Enquiry, the Learned Judicial Magistrate summoned the R1 to face trial for offence under section 138 Negotiable Instrument Act.

8. It would be important to have a look over some relevant provisions of law governing Enquiry.

1. Section 223 of the BNSS - (1) A Magistrate having jurisdiction while taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate: Provided that no cognizance of an offence shall be taken by the Magistrate without giving the accused an opportunity of being heard:

Provided further that when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses— (a) if a

public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or (b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 212: Provided also that if the Magistrate makes over the case to another Magistrate under section 212 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.

2. Section 225. (1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 212, may, if he thinks fit, and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction, postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding: Provided that no such direction for investigation shall be made,—
- (a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or
- (b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 223.
- (2) In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath: Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.
- (3) If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Sanhita on an officer in charge of a police station except the power to arrest without warrant.

Decision and the reasons for the Decision

9. Perused the entire case record of the instant case, the learned trial court, the documents filed on behalf of both the sides.

10. In the case of Chandra Deo Singh vs. Prokash Chandra Bose¹, Hon'ble Apex Court held that "No doubt, one of the objects behind the provisions of s. 202,

¹ AIR 1963 SC 1430

Cr.P.C. is to enable the Magistrate to scrutinise carefully the allegations made in the complaint with a view to prevent a person named therein as accused from being called upon to face an obviously frivolous complaint. But there is also another object behind this provision and it is to find out what material there is to support the allegations made in the complaint. It is the bounden duty of the Magistrate while making an enquiry to elicit all facts not merely with a view to protect the interests of an absent accused person, but also with a view to bring to book a person or persons against whom grave allegations are made. . . ”

11. The Hon’ble Supreme Court in the case of Birla Corporation Limited vs. Adventz Investments and Holdings Limited² observed “27. The scope of enquiry under this Section is extremely restricted only to finding out the truth or otherwise of the allegations made in the complaint in order to determine whether process should be issued or not Under Section 204 Code of Criminal Procedure or whether the complaint should be dismissed by resorting to Section 203 Code of Criminal Procedure on the footing that there is no sufficient ground for proceeding on the basis of the statements of the Complainant and of his witnesses, if any. . .”

12. A perusal of the decided cases suggests that the judicial view on the purpose of the enquiry as stipulated under section 200 and 202 of the CrPC is almost crystallized. And the view is that the enquiry u/s 202 of the CrPC is for the limited purpose to find the truthfulness or otherwise of the allegations made in the complaint, either, oral or written. The basic purpose of the inquiry is to ascertain and find out from the material submitted before the Court whether there is sufficient material to summon the accused. The purpose of the inquiry is also to ensure that the liberty of an individual is not lightly interfered and that the innocents are not harassed unnecessarily. The examination of the complainant and his witnesses, and also the provision to make an inquiry by other authority is a tool in the hand of the magistrate to ensure that false and vexatious proceedings are not carried any further. The enquiry can never partake the character of full fledged trial.

13. In the case of Smt. Nagawwa v. Veeranna Shivalingappa Konjalgi³ it has been held by the Hon'ble Supreme Court that the scope of the enquiry under Section 202 of the Code is extremely limited only to the ascertainment of the truth or falsehood of the allegations made in the complaint

² (2019) 16 SCC 610

³ Supra 7

- (i) on the materials placed by the complainant before the Court
- (ii) for the limited purpose of finding out whether a prima facie case for issue of process has been made out;
- and (iii) for deciding the question purely from the point of view of the complainant without at all adverting to any defence that the accused may have.

It has further been held in this decision that at the stage of issuing process the Magistrate is mainly concerned with the allegations made in the complaint and the evidence led in support of the same and he is only to be prima facie satisfied whether there are sufficient grounds for proceeding against the accused. It is not in the province of the Magistrate at this stage to enter into a detailed discussion of the merits or demerits of the case nor can the High Court go into this matter in its revisional jurisdiction which is very limited one.

Further the Hon'ble Supreme Court has held that it was only in the four cases mentioned in this judgment that the order of the Magistrate issuing process against the accused can be quashed or set aside. These four cases are the following, namely

- (1) where the allegations made in the complaint or the statement of the witnesses recorded in support of the same taken at their face value make out absolutely no case against the accused; or the complaint does not disclose the essential ingredients of an offence which is alleged against the accused; or
- (2) where the allegations made in the complaint petition are patently absurd and inherently improbable; or
- (3) where the discretion exercised by the Magistrate in issuing process is capricious and arbitrary; or
- (4) where the complaint suffers from fundamental legal defects, such as want of sanction etc.

14. The Learned Magistrate on the basis of the complaint petition, the statement of the complainant, the inquiry witnesses recorded on oath as well as on the basis of documentary evidence available on record, summoned the revisionist to face trial for offence under section 138 Negotiable Instrument Act. At the stage of summoning some one to face trial in a complaint case, meticulous examination of the evidence is not warranted. The revisionist failed to show that the allegations made in the complaint or the statement of the witnesses

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Judgment pronounced by me in Hindi in open Court Neeraj Kumar II Additional Sessions Judge I Darbhanga	Written and corrected by me Neeraj Kumar II Additional Sessions Judge I Darbhanga
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Date of Judgment	01.07.2026
Date of Reserving Judgment	17.06.2026
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