

Page No. 1 of 4
Santosh Kumar Pandey, D&ASJ – II, Darbhanga
Criminal Revision No. 140/2025
Mukesh Mishra versus the State of Bihar and another.
Date of Order – 08.06.2026

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-II, DARBHANGA
Criminal Revision No. 140/2025

Mukesh Mishra s/o Mit Narayan Mishra, resident of Village - Bhalpatti, P.S. - Bhalpatti,
District - Darbhanga ----- Revisionist/petitioner

versus

- | | |
|---|--------------------------|
| 1. The State of Bihar | ----- Opposite 1st Party |
| 2. Akhilesh Mishra s/o Late Raj Mohan Mishra, resident of Village + P.S - Bhalpatti, District - Darbhanga | ----- Opposite 2nd Party |
| 3. Ram Chandra Sah s/o Late Hira Sah, | |
| 4. Ajay Sah s/o Ram Chandra Sah, both are resident of Village + P.S - Bhalpatti, District - Darbhanga | ----- Opposite 3rd Party |

Appearance(s):

Counsel for the Revisionist(s)	: Sri Sudhir Kumar Jha, Learned Advocate.
Counsel for the State	: Sri V. N. Singh, Additional Public Prosecutor.
Counsel for the O.P. 2nd Party	: Sri Vishnu Kant Choudhary, Learned Advocate.
Counsel for the O.P. 3rd Party	: Sri Sanoj Kumar Jha, Learned Advocate.

ORDER
08.06.2026

1. The present criminal revision petition has been preferred by the revisionist challenging the legality, propriety and correctness of the order dated 05.08.2025 passed by the learned Chief Judicial Magistrate, Darbhanga in connection with Bhalpatti P.S. Case No. 45/2025 corresponding to CRI Case No. 3205/2025, whereby and whereunder cognizance of the offences punishable under Sections 329(3) and 324(4) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as “BNS”) has been taken against O.P. No. 2 and summons were directed to be issued against him. The revisionist is the informant of the present case.
2. Learned counsel appearing on behalf of the revisionist submitted that the impugned order is illegal, improper and unsustainable in the eyes of law. It has been contended that the learned court below failed to properly appreciate the allegations contained in the written report as well as the materials collected during investigation. According to the revisionist, O.P. No. 2 and O.P. No. 3 persons jointly cheated the revisionist by receiving a sum of Rs. 11,75,000/- in the name of sale of a demarcated piece of land, but subsequently delivered possession of another land. It has further been argued that despite specific allegations against O.P. No. 3, the learned court below failed to take

cognizance against them and therefore the impugned order suffers from material irregularity warranting interference in revisional jurisdiction.

3. Per contra, learned Additional Public Prosecutor appearing on behalf of the State opposed the revision petition and submitted that the impugned order has been passed after due consideration of the materials available in the case diary and upon proper application of judicial mind. It has been contended that no illegality, material irregularity or jurisdictional error is apparent in the impugned order.
4. Learned counsel appearing on behalf of O.P. No. 2 submitted that he was and is always ready to handover the peaceful possession of sold land to the revisionist as per the registered deed but the revisionist is now demanding more land than purchased hence, a false case has been filed and the learned CJM, Darbhanga would not have taken cognizance even against this OP.
5. Learned counsel appearing on behalf of O.P. No. 3 submitted that although the O.P. No. 3 persons were named in the FIR, the investigating agency, during the course of investigation, did not find any material substantiating their involvement in the alleged occurrence and accordingly they were not sent up for trial.
6. I have heard learned counsel for the parties and carefully perused the lower court records as well as the impugned order passed by the learned court below.
7. Before advertng to the rival submissions advanced on behalf of the parties, it would be apposite to briefly notice the prosecution case as emerging from the FIR. The prosecution case, in substance, is that the villagers of the informant namely Akhilesh Mishra, Ram Chandra Sah and Ajay Sah took a sum of Rs. 11,75,000/- from the revisionist towards sale consideration of land. It is alleged that after receiving the said amount, the accused persons started evading execution of proper possession and after repeated persuasion, they executed registration of 2 kathas and 10 dhurs of land appertaining to Thana No. 60, Khata No. 1975 (old), 1820 (new), Khesra No. 3504 (old) and 7447 (new). It has further been alleged that when the revisionist approached for taking possession over the said land, accused Akhilesh Mishra along with others obstructed him and demanded an additional sum of Rs. 5,00,000/- for delivery of possession. It has also been alleged that the accused persons threatened the revisionist by stating that the land would be sold to persons having criminal antecedents. On the basis of the said allegations, the FIR came to be instituted against

three persons and investigation commenced. From the perusal of the case diary, it appears that after completion of investigation, charge-sheet was submitted only against O.P. No. 2 whereas O.P. No. 3 persons were not sent up for trial. It further appears from the statements of prosecution witnesses recorded during investigation that the witnesses did not support the allegations against O.P. No. 3 and specifically stated that O.P. No. 3 persons were not involved in the present occurrence. Paragraphs 16 and 17 of the case diary further reveal that O.P. No. 3 persons were not present at the place of occurrence at the relevant point of time.

8. It is a settled principle of criminal jurisprudence that at the stage of taking cognizance and issuance of process, the court is only required to ascertain whether prima facie materials exist for proceeding against the accused persons. Detailed appreciation of evidence or examination of probable defence is not warranted at such preliminary stage.
9. **The Hon'ble Apex Court in 2015 (2) PLJR 321 (SC)** has categorically held that while taking cognizance, the Magistrate is required only to apply judicial mind to determine whether a prima facie case is made out and not whether the materials are sufficient for conviction.
10. Similarly, **in 2014 (4) Crimes 183 (SC)**, it has been reiterated that the Magistrate is competent to independently apply judicial mind to the facts emerging from investigation and proceed in accordance with law where sufficient grounds exist for proceeding against the accused persons.
11. It is equally well settled that revisional jurisdiction is supervisory and limited in nature. Interference by the revisional court is warranted only where there exists patent illegality, jurisdictional error or material irregularity causing miscarriage of justice.
12. Upon careful scrutiny of the impugned order and the materials available on record, this Court does not find any illegality or material irregularity in the order passed by the learned Magistrate. The learned court below has considered the allegations made in the FIR, the materials available in the case diary and the outcome of investigation before proceeding to take cognizance against O.P. No. 2 alone. So far as the grievance of the revisionist regarding non-taking of cognizance against O.P. No. 3 is concerned, it appears from the case diary that the investigating agency did not find

Page No. 4 of 4
Santosh Kumar Pandey, D&ASJ – II, Darbhanga
Criminal Revision No. 140/2025
Mukesh Mishra versus the State of Bihar and another.
Date of Order – 08.06.2026

sufficient materials against them. The witnesses examined during investigation also did not support the allegations against O.P. No. 3 and specifically stated about their non-involvement in the occurrence. Therefore, in absence of sufficient prima facie materials against O.P. No. 3, this Court does not find any perversity or illegality in the decision of the learned Magistrate in not proceeding against them. The contentions advanced on behalf of the revisionist essentially pertain to disputed questions of fact which cannot be conclusively adjudicated in exercise of revisional jurisdiction at this preliminary stage.

13. In view of the discussions made hereinabove, this Court is of the considered opinion that the present criminal revision petition is devoid of merit and does not warrant interference by this Court. Accordingly, the criminal revision petition stands **dismissed**.
14. Let a copy of this order along with the lower court records be transmitted forthwith to the learned court concerned for information and necessary action.

(Santosh Kumar Pandey)
Additional Sessions Judge-II
Darbhanga
08.06.2026

Date of Judgement/order	08.06.2026
Date of reserving judgement/Order	25.05.2026
Uploading Date	08.06.2026
Uploaded by	Ashish Kumar, Stenographer.