

In the court of Dist. & Addl. Sessions Judge, Biraul, Darbhanga.

Present:-

Shiv Kumar

Dist. & Addl. Sessions Judge

Sub Divisional Courts, Biraul, Darbhanga.

Biraul, Dated 29th of June, 2026.

Criminal Revision No. 01 of 2026

1. Mahendra Sahu, S/o- Late Paltan Sahu.
2. Shankar Sahu, S/o- Mahendra Sahu.
3. Mayaram Sahu, Son of Ganeshwar Sahu.
4. Kamaljeet Sahu, Son of Ramsogarath Sahu
5. Umesh Sahu, Son of Late Rambahadur Sahu.

R/o Village- Balhakhon, P.S.- K.Asthan, Dist.-Darbhanga

.....**Revisionist/Petitioner.**

Versus,

1. *The State of Bihar.*
2. *Arun Sahu S/o- Late Brahmdeo Sahu*

..... **Opposite Parties.**

Counsel for Revisionist- Sri Sunil Kumar Singh, Ld. Advocate.

Counsel for State- Sri Bachcha Rai, Ld.A PP.

Counsel for O.P No. 2- Nemo.

ORDER

29-06-2026. The present Criminal Revision has been preferred by the above-mentioned revisionist-petitioners against the impugned order dated 11-09-2025 passed by Ld. SDJM, Biraul in connection with Kueshwar Asthan PS case No. 65/2025 whereby the learned SDJM, Biraul has found that a prima facie case is made out against the accused persons named in column 11 and 12 of charge-sheet and accordingly taken cognizance u/s 126(2), 127(1), 115(1), 109, 74, 324(4), 352, 351(2), 3(5) of BNS against them and issued process for securing their presence.

The brief facts of the case as stated in the application of informant namely Arjun Sahu is that on 14.03.2025 at about 6 PM, all the named accused namely Umesh Sahu, Mayaram Sahu, Shankar Sahu, Mahendra Sahu, Kamaljeet Sahu along with 5-6 unknown persons, formed an unlawful assembly armed with deadly weapons, trespass into the informant's house, and brutally assaulted the informant, his brother Rajkumar Sahu, and other family members. Accused Umesh Sahu allegedly inflicted a farsa blow on Raj Kumar Sahu's head with the intention to kill. Mayaram Sahu assaulted informant with iron rod on his arm. Shankar Sahu assaulted Pinki Devi and Manju Devi with lathi. During incident, the accused outraged the modesty of women by tearing their clothes. Accused Kamaljeet Sahu hit informant, his brother and female with lathi. Accused Umesh Sahu broke and damaged informant's motorccyle, which was parked at the door. Furthermore, they damaged the door, shattered the electricity bulbs and lights, and dstroyed the roof tiles of the house by pelting bricks, causing heavy losses. After that injured were taken to PHC Satighat for treatment from where Rajkumar Sahu had been referred to DMCH for better treatment.

On the basis of aforementioned information K.Asthan PS case NO. 65 of 2025 dt. 15.03.2025 has been lodged against the aforesaid accused persons namely Mahendra Sahu, Shankar Sahu, Mayaram Sahu, Kamaljeet Sahu and Umesh Sahu for the offences punishable under sections 126(2), 127(1), 115(1), 118(1), 109, 74, 352, 351(2), 3(5) of BNS. The police after completion of its investigation submitted charge-sheet being No. 174/2025 dt. 09.07.2025 against only 4 accused persons namely Umesh Sahu, Mayaram Sahu, Shankar Sahu, Kamaljeet Sahu. The police has not sent up accused Mahendra Sahu in the charge-sheet for trial and his name has been mentioned in column 12 of the charge-sheet. After that Ld. SDJM, Biraul after perusing all the materials available on record, found that a prima facie case is made out against all accused persons whose names were mentioned in column 11 and 12 of the charge-sheet under sections 126(2), 127(1), 115(1), 109, 74, 324(4), 352, 351(2), 3(5) of BNS and accordingly taken cognizance against them(herein petitioners) by its order dt. 11.09.2025 and issued processes for obtaining their presence and directed for issuance of summons against the accused persons(herein petitioners/revisionists) for their appearance.

Being aggrieved and dissatisfied by the order dt. 11.09.2025 of the Ld. SDJM, Biraul, the petitioners (herein revisionists) have filed the present revision petition.

Heard the learned counsel for the revisionists, learned counsel for the State (herein Opposite Party) and perused the record as well as other relevant documents as annexed with this criminal revision petition.

The learned counsel for the revisionist argued that impugned order is bad in law as well on facts. The impugned order is against the material available on the record. The impugned order passed by the Ld. SDJM, Biraul is based on conjectures and surmises. The Ld. Magistrate has not applied his judicial mind while passing the impugned order. He has also argued that from perusal of the FIR and case diary no prima facie case is made out against the petitioners. He further submits that the Ld. Court below has not consider the injury report and taken cognizance u/s 109 BNS. The doctor has not sharp cutting injury on injured Raj Kumar Sahu. Section 74 of BNS is ornamental in nature. Under the circumstances, the Ld. Counsel for revisionist prayed to set aside the order dt. 11.09.2025 passed by the Ld. SDJM, Biraul.

The learned counsel for the State(OP) submitted that the order impugned has been passed in accordance with law and does not require any interference by this court. The Ld. Counsel for state submits that the Ld. SDJM, Biraul after perusing all the materials available on record has found that a prima facie case is made out against the petitioners and others and took cognizance of the case as consequence of which summons have been issued to petitioners and other accused persons. According to which there is nothing wrong with the impugned order therefore, present petition is liable to be dismissed at its threshold.

After hearing both sides and from perusal of records of the present case and the documents annexed with the present revision petition it has been found that the Ld. SDJM, Biraul after going through the materials available on record has found that a prima facie case is made out against the petitioners and other accused persons and accordingly has taken cognizance against them by its order dt. 11.09.2025.

The question involved in the present case lies in narrow compass that is “whether the Ld. Magistrate has taken cognizance of this case in accordance with law”. The meaning of the word 'cognizance' has been explained by Hon'ble Supreme Court in *Subramanian Swamy vs. Manmohan Singh & Another*, (2012) 3 SCC 64, it is mentioned that in legal parlance the meaning of cognizance is taking judicial notice of a case by the court of law, possessing jurisdiction to try the case, on a cause or matter presented before it so as to decide whether there is any basis for initiating proceedings and determination of the cause or matter judicially". The Magistrate while taking cognizance of a case has to satisfy himself about the satisfactory grounds to proceed with the complaint or case and at this stage it is not considered by court taking cognizance that there is sufficient ground for conviction of accused persons mentioned in complaint or case. The court through Ld. Magistrate at the stage of taking cognizance, is not required to record elaborate reasons but the order should reflect independent application of mind by the Magistrate to the material placed before him.” Since the order dt. 11.09.2025 has been challenged by way of revision so it would not be out of context to reproduce the purpose of filing a revision petition.

The precise purpose of revision is to examine the correctness, legality or propriety of any proceedings conducted before any court which is subordinate to court before whom revision has been filed.

In the present case the police report is the basis on which the Learned SDJM, Biraul has taken cognizance of the case and in the case diary there are sufficient materials to make out a prima facie case u/s 126(2), 127(1), 115(1), 109, 74, 324(4), 352, 351(2), 3(5) of BNS. Para 5 of the case diary mentions restatement of informant in which he has supported the prosecution case and reiterated the same version as alleged in the FIR and mentions about the involvement of petitioners in the alleged incident. Para 6 of the case diary mentions statement of injured witness namely Rajkumar Sahu who too have supported the prosecution's case and specifically stated about the involvement of petitioner during incident/assault. Para 8, 9, 10, 11 of the case diary mentions statement of witnesses namely Pinki Devi and Manju Devi who too have supported the case. These witnesses have also stated that the petitioners were involved in liquor business. Para 45 of the

case diary mentions injury report of injured Raj Kumar Sahu issued from DMCH. As per this report he has received a stitched wound over the right parietal region of scalp of size 3 cm and abrasion on the middle and ring finger on the inner aspect 3 cm and 4 cm. Mild scalp swelling over right parietal bone and over frontal bone in right side. Old non healed fracture of distal humerus.

So far as the offence u/s 109 BNS is concerned, at this preliminary stage, the Court is not required to conclusively determine the intention of accused. The nature of assault, the manner of occurrence, the collective participation of the accused persons, and the resultant injury are sufficient to raise a prima facie interference of intention or knowledge attracting section 109 BNS, which requires adjudication during trial.

It is well settled that for an offence under section 109 BNS, the nature of injury is not decisive; rather, the intention and the act done by the accused are material. Therefore the contention of counsel for petitioner is wrong that no prima facie offence u/s 109 BNS has been made out in this case.

Therefore considering entire material in toto available on records of this case and observations made above it has been found that the order dt. 11.09.2025 passed by the Ld SDJM, Biraul is correct and it does not require any interference by this court. Accordingly, I find no merit in this revision petition of the Revisionists and the same stands **dismissed**.

The trial court record, if any, be returned to the concerned court along with the copy of this order. The revision file be consigned to the record room as per law.

(Dictated)

(Shiv Kumar)
Addl. Sessions Judge,
Biraul(Darbhanga)
29.06.2026

The order has been corrected, pronounced, signed and dated by me in the open court.

(Shiv Kumar)
Addl. Sessions Judge
Biraul