

In the Court of Sessions Judge, East Champaran at Motihari.

Criminal Revision No. 339 of 2025

[Against the impugned order dated 30-04-2025 passed by the learned Court of Mrs. Kumari Rinku, J.M. 1st Class, Motihari in Sugauli P.S. Case No.178 of 2024]

1. Afsara Khatoon, W/o- Late Md. Sajad @ Late Sanjad, aged about 37 years
Resident of village- Amir Khan Tola, Ward No.12, P.S.- Sugauli,
District- East Champaran -----Petitioner/Revisionist

Versus

1. The State of Bihar
2. Joni Mian, S/o- Late Nasruddin Mian,
3. Jamil Akhtar @ Jimal, S/o- Late Nasruddin Mian,
4. Alamgir Mian, S/o- Late Nasruddin Mian,
5. Naushad Alam, S/o- Sabir Miasn,
6. Jabbar Alam, S/o- Joni Mian,
7. Ejhar Alam, S/o- Moharram Mian
8. Kalimullah Mian, S/o- Sitara Mian
All resident of village- Amir Khan Tola, Ward No.12, P.S.-
Sugauli, District- East Champaran ----- Opposite Parties

Counsel for the petitioner :- Sri Arun Kr. Shrivastava, Advocate.
Counsel for the O.P. No.1:- Sri Shambu S. Singh, Addl. P.P.
Counsel for the O.P. No.2:- Sri Wozair Ahmad, Advocate.

Motihari, dated 6th June, 2026

Present

Abhishek K. Das,
Sessions Judge,
East Champaran at Motihari.

O R D E R

06-06-2026

1. This Criminal Revision has been preferred by the petitioner/ revisionist against the impugned order dated 30-04-2025 passed by the Learned Court of Mrs. Kumari Rinku, J.M. 1st Class, East Champaran at Motihari in Sugauli P.S. Case No.178 of 2024, whereby and whereunder the learned Court below has taken cognizance u/ss 447, 323, 354 and 504/34 of the Indian Penal Code (hereinafter 'I.P.C.') against O.P. No.3, 6, 7 and 4,

namely, Jimal @ Jamil Akhtar, Jabbar Aalam, Ejhar Aalam and Kalimullah Mian respectively, while the petitioner had lodged Sugauli P.S. Case No.178 of 2024 u/ss 147, 149, 341, 323, 324, 447, 307, 354, 354(B), 379 and 504 of the I.P.C. against O.P. 2 to 8, namely, Joni Mian, Kalimullah Mian, Alamgir Mian, Ijhar Alam, Naushad Alam, Jamil Akhtar and Jabbar Alam.

2. Today, a withdrawal petition has been filed of petitioner stating therein that case has been compromised and, as such the petitioner seeks permission to withdraw this criminal revision. This criminal revision has been admitted vide order dated 06-01-2026. The criminal revision petition once admitted cannot be dismissed as withdrawn or dismissed in default. Hence, the withdrawal petition filed on behalf of the petitioner is rejected.

3. Before the learned Trial Court, the petitioner/revisionist is informant, who had lodged Sugauli P.S. Case No.178 of 2024 against O.P. No. 2 to 8.

4. Heard the learned counsel for both the sides and learned Addl. Public Prosecutor and perused the record as well as Trial Court Record.

5. The learned counsel for the petitioner/revisionist has submitted that the impugned order dated 30-04-2025 is bad in law and fit to be set aside. The learned Court below without considering the materials available on record passed the impugned order. The witnesses have supported the prosecution case and doctor has found injuries on frontal region of the informant and two injuries on parietal region of Raushan Mian, but the learned Court below did not consider the same. The learned Court below erred in holding that only a case u/ss 447, 323, 354 and 504/34 of the I.P.C. is made out against four accused persons.

6. The Learned Addl. Public Prosecutor appearing on behalf of the State (O.P. No.1) has opposed the submission of the learned counsel for the petitioner/ revisionist and it is submitted that the Learned Court Below has rightly passed the impugned order.

7. As per F.I.R., the prosecution case, in brief, is that on 19-04-2024 at about 08:00 A.M. all the accused persons named in the F.I.R. armed with weapons came at the house of informant and started abusing. On protest, they all attacked on informant with intention to kill her. On the order of Joni Mian, Jamil Akhtar gave blow of *dabila* on the head of informant with intention to kill her, causing injury. Alamgir Mian assaulted the informant with iron-rod, due to which she received injury on her whole body. Naushad Alam caught the hair of informant and pulled her on the ground, due to which she received injury and became semi-naked. Jabbar Alam assaulted the informant with fist. Upon commotion, when informant's brother Raushan Mian came in rescue, they all surrounded him and Ijhar Mian assaulted him with *garasa* upon his head intention to murder him, causing injury. Kalimullah Mian assaulted him with *muari* and Joni Mian snatched golden chain from him.

8. Consequent upon the written application of informant Afsara Khatoon, duly signed by informant, Sugauli P.S. Case No.178 of 2024 was registered u/ss 147, 149, 341, 323, 324, 447, 307, 354, 354(B), 379 and 504 of the I.P.C. against seven accused persons, namely, Joni Mian, Kalimullah Mian, Alamgir Mian, Ijhar Alam, Naushad Alam, Jamil Akhtar and Jabbar Alam. After investigation, the police did not find involvement of Joni Mian, Alamgir Mian and Naushad Alam and submitted Charge-sheet No.236 of 2025 u/ss 447, 323, 354 and 504/34 of the I.P.C. against Jimal @ Jamil Akhtar, Jabbar Alam, Ijhar Alam and Kalimullah Mian. Thereafter, vide order dated 30-04-2025, the learned Court below did not find cogent material against Joni Mian, Alamgir Mian and Naushad Alam and considering the materials available on record, took cognizance u/s 447, 323, 354 and 504/34 of the I.P.C. against Jimal @ Jamil Akhtar, Jabbar Aalam, Ejhar Aalam and Kalimullah Mian.

9. Regarding cognizance, the Hon'ble Supreme Court of India in the case of ***Bhushan Kumar & Anr. Vs. STATE (NCT of Delhi) & Anr. (2012)5 SCC 424*** has held in para-11 that:-

“11. In chief enforcement officer V. Videocon International Ltd. (2009) 2 SCC 370 the expression

“cognizance” was explained by the Court as “it merely means ‘become aware of’ and when used with reference to a court of a Judge, it connotes ‘to take notice of judicially’. It indicates the point when a court or a Magistrate takes judicial notice of an offence with a view to initiating proceedings in respect of such offence said to have been committed by someone”. It is entirely a different thing from initiation of proceedings; rather it is a condition precedent to the initiation of proceedings by the Magistrate or the Judge. Cognizance is taken of cases and not of a person. Under Section 190 of the Code, it is the application of Judicial Mind to the averments in the complaint that constitutes cognizance. At this stage, the Magistrate has to be satisfied whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction can be determined only at the trial and not at the stage of enquiry. If there is sufficient ground for proceeding then the Magistrate is empowered for issuance of process under Section 204 of the Code.”

10. It is no longer *res integra* that while taking cognizance, the learned Magistrate has to satisfy himself that there are materials to proceed against the accused and upon the materials, the Magistrate has to take cognizance of the offence. The satisfaction of Magistrate, while taking cognizance, is subjective satisfaction and cognizance order indicate that there are sufficient reasons to take cognizance in the offence mentioned. The cognizance must not be a mini trial, but should reflect the satisfaction of the Magistrate.

11. From perusal of case diary, available in the trial court record, it transpires that the informant in her re-statement has stated that Jamil Akhtar,

Alamgir Mian, Naushad Alam and Jabbar Alam assaulted her and Ejhar Alam, Kalimullah assaulted her brother, due to which they received injury. The witnesses vide para- 6, 7 and 8 of the case diary have corroborated the prosecution case. The witnesses vide para-31 of the case diary has stated that Joni Miya, Alamgari Miya and Naushad Alam were not involved in the occurrence and being neighbor of co-accused, they have been made accused in this case. As per injury report of informant Afsara Khatoon, mentioned in para-40 of the case diary, she has received two visible injuries i.e. (1) laceration on mid frontal region of size 1" x 1/8" x skin deep, (2) laceration on mid frontal region of size 1" x 1/8" x skin deep, which are simple in nature. As per injury report of Md. Raushan, mentioned in para-41 of the case diary, he has received two visible injuries i.e. (1) laceration on left parietal area of size 1½" x 1/8" x skin deep and (2) laceration on right parietal area of size ½" x 1/8" x skin deep, which are simple in nature. Thus, it transpires that there is sufficient materials available in the case diary to proceed against accused Jimal @ Jamil Akhatar, Jabbar Alam, Ejhar Alam and Kalimullah Miya and involvement of accused, namely, Joni Miya, Alamgair Miya and Naushad Alam have not been found in the case.

12. From perusal of entire record and in light of above analysis, I find that the impugned order dated 30-04-2025 passed by the learned Court of Mrs. Kumari Rinku, J.M. 1st Class, Motihari in Sugauli P.S. Case No.178 of 2024 is reasoned order and based on record and suffers from no impropriety, illegality and incorrectness. The impugned order does not warrant any revisional interference.

13. Accordingly, this criminal revision is **dismissed**.

14. Let a copy of this order be communicated to the Court concerned. Trial Court Record be returned.

(Dictated and corrected by me)

Sd/-

Sessions Judge
East Champaran at Motihari
06-06-2026

In the Court of Abhishek K. Das, Sessions Judge, East Champaran at Motihari.
Criminal Revision No.339 of 2025
[Afsara Khatoon Vs. State of Bihar and others]

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Date of order	06-06-2026
Date of reserving order	-
Uploaded Date	10-06-2026
Uploaded by	A,K.Heera, Steno