

In the Court of Sri Sandip Singh, Principal District & Sessions Judge, Jamui

Criminal Revision No. 40/2025
(Arising out of Jhajha P.S. Case No. 157/2021)

Md. Shamsheer Alam S/o Late Gulam Rasool aged about 66 years
R/o Village- Tumba Pahar, P.S.- Jhajha, District- Jamui.

..... Revisionist.

Vrs.

1. The State of Bihar.
2. Md. Imteyaaz @ Imteyaz Ansari S/o Md. Ramjaan Ansari
R/o Village- Tumba Pahar, P.S.- Jhajha, District- Jamui.

.....Opposite parties.

Dated: 23.04.2026

ORDER

1. The present criminal revision has been preferred against the order dated 07.02.2025 whereby and where under the cognizance of offence under Sections 341, 324, 307, 379, 504 and 506 of I.P.C. has been taken against only five accused persons namely 1. Md. Tabir Ansari, 2. Md. Sajid Ansari, 3. Md. Sabir, 4. Md. Chotu and 5. Fahima Khatoon against whom the charge sheet has been filed except one accused namely Md. Imtiyaaz who has not been charge sheeted by police officer.
2. Heard learned counsel Sri. Mukesh Kumar for the revisionist as well as learned counsel Sri. Devendra Nath Upadhyay for the opposite party no. 2. and the learned counsel for the State.
3. The short fact of this case is that as per the prosecution case, a quarrel has occurred during cricket match between one Md. Gufran and Md. Jabir Ansari and when the informant has gone to ask about the same, the F.I.R. named accused persons had first abused the informant and after that they assaulted the informant with sword.
4. It is also pertinent to mention here that the F.I.R. has been lodged against six accused persons namely 1. Md. Jabir Ansari, 2. Md. Sajid, 3. Md. Sabir, 4. Md. Chotu, 5. Bibi Fahima Khatoon and 6. Md. Imteyaaz but after investigation, the charge sheet has been filed only against five accused persons, except Md. Imteyaaz but the Learned C.J.M., Jamui vide

his order dated 04.02.2022 has taken cognizance against all six accused persons including Md. Imteyaaz against whom the charge sheet was not filed. Thereafter, being aggrieved with the aforesaid order, Md. Imteyaaz filed a Criminal Revision No. 121/2022, which was dismissed vide order dated 01.03.2023 passed by the Court of Sessions Judge, Jamui. Thereafter, Md. Imteyaaz Ansari @ Md. Imteyaz filed a Cr. Misc. No. 19353/2023 for assailing the order of cognizance as well as order passed in Cr. Revision No. 121/2022 and the Learned Hon'ble Court vide his order dated 01.08.2023 quashed the order dated 01.03.2023 passed by the Learned Sessions Judge, Jamui in Cr. Revision No. 121/2022 holding that from perusal of the record, it appears that a final form was submitted against the Md. Imteyaaz Ansari and the Magistrate has taken cognizance deferring with the final form by quoting certain paragraphs but he has not discussed the materials in these paragraphs as the police has exonerated the petitioner relying upon the same.

5. It is not out of place to mention here that the aforesaid order dated 01.08.2023 passed Cr. Misc. No. 19353/2023 was challenged by the informant of this case before the Hon'ble Supreme Court of India and the Hon'ble Apex Court directed to the Chief Judicial Magistrate, Jamui, Bihar to examine the matter and to pass fresh order of cognizance observing therein that the order dated 04.02.2022 passed by the learned C.J.M., Jamui as well as the revision order dated 01.03.2023, passed in Cr. Rev. No. 121/2022 by Sessions Judge, Jamui was not quashed on merits but because it did not record any reasons for taking cognizance and summoning the accused Md. Imteyaz Ansari. Accordingly, as per the direction of the Hon'ble Supreme Court the Learned Chief Judicial Magistrate has passed afresh order dated 07.02.2025, whereby, cognizance is taken for the offence under Sections 341, 324, 307, 379, 504 and 506 of the I.P.C. against only five accused persons who have been charge sheeted and not against Md. Imteyaaz Ansari who has been exonerated by the police and not charge sheeted accused. The Learned Chief Judicial Magistrate also quoted some paragraphs of the case diary and it is stated that he has perused the quoted paragraphs, and thereafter, passed the cognizance order

6. Being aggrieved by the fresh cognizance order dated 07.02.2025 passed by the C.J.M., Jamui in Jhajha P.S. Case No. 157/2021, the petitioner preferred this Cr. Revision assailing the order of cognizance dated 07.02.2025.

7. The learned counsel for the petitioner submitted that the Learned Magistrate has taken cognizance in mechanical manner without proper appreciation of the materials available on record as there is prima facie case made out against the accused Md. Imteyaaz @ Imteyaz

Ansari. Though, police has not filed charge sheet against him.

8. The learned P.P. and the learned counsel for opposite party commonly submitted that the impugned order is well reasoned and based on sufficient materials available in the case diary and no interference is warranted in his revisional jurisdiction. The impugned order is also in consonance with the direction given by the Hon'ble Court, Patna vide order dated 01.08.2023 passed in Cr. Misc. No. 19353/2023. It is also submitted that by the fresh cognizance order dated 07.02.2025, the Magistrate is not deferring with the final report and therefore cognizance has been taken only against five accused persons against whom the charge sheet was filed except accused Md. Imteyaaz who has been exonerated by the police.

FINDINGS

9. At the outset, it is pertinent to note that at the stage of taking cognizance and issuance of process, the Magistrate is required to evaluate whether a prima facie case is made out against the accused persons on the basis of materials available on record. The Magistrate is not required to conduct a meticulous appreciation of evidence as would be done during trial.

10. I have gone through the impugned order as well as the other materials available on record, it appears that the Learned Magistrate has taken cognizance after perusal of the F.I.R., case diary and other relevant materials and he has also quoted some paragraphs in the impugned order, which is paragraph nos. 13, 15, 16, 28 and 54 of the case, and thereafter, he has found prima facie ground to proceed against only five charge sheeted accused persons and not against the non-charge sheeted accused Md. Imteyaaz.

11. This court also gone through the aforesaid paragraphs of the case diary, in which, it is stated that the independent witnesses have not supported the allegation alleged in the F.I.R. against Md. Imteyaaz and further there is no any over act of assault made by Md. Imteyaaz because in the aforesaid paragraphs, it has come that he has not assaulted to any one, and therefore, police after investigation have not filed charge sheet against him. Since, the Learned Court below has not deferred with the final report and he has taken cognizance against only five charge sheeted accused persons and exonerated the another accused Md. Imteyaaz.

Hence, this court has not found any illegality, impropriety or jurisdictional error. **Accordingly, this Cr. Revision is dismissed** and impugned order dated 07.02.2025 passed by the Learned Judicial Magistrate taking cognizance is hereby affirmed.

However, during perusal of record including F.I.R., case diary and impugned order, it appears that while passing the impugned order, the Learned Magistrate has wrongly recorded the name of one accuse as Md. Tabir Ansari, which is not mentioned in the F.I.R. and perhaps in place of Md. Jabir Ansari it has been stated as Md. Tabir Ansari.

It is well settled that such clerical error do not vitiate the order of cognizance when otherwise the order passed on proper application of mind and sufficient materials on record, therefore, the Learned Trial Court is directed to correct the name of the concerned accused in the cognizance order as per the name mentioned in the F.I.R. and case records treating the same as a clerical error.

Let, a copy of this order be sent to the court concerned along with L.C.R. and the office is directed to deposit the record in the record room of Civil Courts, Jamui as per rules.

(Dictated)

(Sandip Singh)
Principal District & Sessions Judge, Jamui.