

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

Criminal Revision No. 82/2025

(Arising out of Jhajha P.S. Case No. 164/2023)

C.N.R. No.- BRJA01-003963-2025

Lakhiya Devi W/o Tulakant Yadav aged about 57 years

R/o Village- Kanan, P.S.- Jhajha, District-Jamui.

..... Revisionist.

Vrs.

1. The State of Bihar.

.....O.P. No. 1.

2. Kali Tanti S/o Late Jagdish Tanti

R/o Village- Kanan, P.S.- Jhajha, District- Jamui.

.....O.P. No. 2.

Dated: 13.08.2026

ORDER

1. The present criminal revision has been preferred against the order dated 13.02.2024/10.02.2025 passed by the learned C.J.M, Jamui in Jhajha P.S. Case No. 164/2023, whereby the cognizance of the offences has been taken only against four accused persons, although the Investigating Officer, after completing investigation, submitted charge-sheet against all five F.I.R. named accused persons.

2. Heard learned counsel Sri. Binay Kr. Yadav for the revisionist/petitioner as well as learned counsel Sri. Ramjivan Kanaujia for the O.P. No. 2 as well as learned counsel for the State.

3. The short fact of this case is that the F.I.R was instituted, alleging commission of offences by F.I.R. named five accused persons, alleging therein that when the boundary wall of the Lakhiya Devi was being broken by the accused persons, then the accused persons were protested by the informant, then they assaulted to the informant and when her daughter-in-law came to rescue her then she was also assaulted by the accused persons.

4. After completion of investigation, the police found sufficient materials against all the five accused persons and submitted charge-sheet accordingly. However, while taking cognizance, the learned Magistrate summoned only

four accused persons namely 1. Lalbachhan Tanti, 2. Omkar Tanti, 3. Rekha Devi and 4. Kusum Devi and omitted the name of Kali Tanti, who is opposite party no. 2 in this case.

5. Hence, being aggrieved by the cognizance order dated 13.02.2024/10.02.2025, the instant revision petition has been filed.

6. The learned counsel for the petitioner submitted that the record reveals that the police report specifically recommends prosecution of all five accused persons by filing charge sheet against them but the impugned order merely states that the cognizance is taken against four accused persons without disclosing why the remaining charge sheet accused has been excluded.

7. On the other hand, the learned counsel for the State as well as informant stated that there is no illegality in the impugned order.

FINDINGS

8. Considering the aforesaid facts and circumstances of the case and after going through the record, it is found that the police has submitted charge sheet against all the five accused persons namely Lalbachhan Tanti, Onkar Tanti, Rekha Devi, Kusum Devi and Kali Tanit. But the cognizance has been taken only against four accused persons excluding the name of accused Kali Tanti without assigning any reason.

9. It is settled that cognizance is taken of the offence and not merely of the offender. The Magistrate is undoubtedly competent to disagree with the police report and either summon additional persons or decline to proceed against some of the charge-sheeted accused. However, where the Magistrate departs from the police report by refusing to proceed against charge-sheeted persons, such departure must reflect application of judicial mind and reasons for such exclusion.

10. The impugned order is completely silent regarding the materials against accused Kali Tanti and contains no reason whatsoever for not taking cognizance against him. Such a cryptic order cannot be sustained as it frustrates judicial scrutiny and renders the exercise arbitrary.

11. **Accordingly, the revision is allowed** and the impugned order dated

13.02.2024/10.02.2025 is hereby set aside.

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.