

District- Katihar.

In the Court of the Principal District & Sessions Judge, Katihar.

Present : Ranvir Singh,
Sessions Judge, Katihar.

Dated, Katihar, the 06th day of May, 2026

Ref:-Criminal Revision No. 38 of 2024

1. **Sushil Pd. Bhagat**, aged about 67 years, Son of Late Anandi Pd. Bhagat;
2. **Khagendra Pd. Bhagat**, aged about 63 years, Son of Late Anandi Pd. Bhagat;
3. **Uday Kumar Bhagat**, aged about 46 years, Son of Khagendra Pd. Bhagat;

All are resident of Village- Dighri, P.S. - Korha, District- Katihar.

.....Revisionists/ Petitioners

Versus

1. **Abdul Khabir**, aged about 63 years, Son of Late Mohsin, Resident of Village Baijnathpur, P.S. - Korha, District - Katihar,
2. State of Bihar.

.....Respondents/Opposite Parties.

Counsel for the Petitioner/Revisionist : Sri Bagchi, Ld. Adv.

Counsel for the State/Opposite Parties: Sri Jagdish Prasad Sah, Ld. P.P.

ORDER

This criminal revision has been preferred against the order dated 19.07.2023 passed by the court of Smt. Kavita Kumari, Ld. J.M. 1st Class, Katihar, in Complaint Case No. 209/2023 whereby and whereunder the learned Trial Court has observed that a prima facie case is made out under section 323, 504 & 417 of the Indian Penal Code against the accused persons namely (1) Sushil Kumar Bhagat, (2) Khagendra Prasad Bhagat and (3) Uday Kumar Bhagat and office was directed to issue summons against the accused persons as named in the complaint petition after filing of proper requisites by the complainant.

2. As per complaint petition, short story of this case is that the revisionists made proposal to sell a piece of land measuring an area of 69 decimals appertaining to Khata No. 136, Khesra No. 386, Mauja Digree to the complainant/ O.P. No. 2 and the consideration amount for the said land was fixed at Rs. 42,86,303/- and thereafter, on 03.10.2013, the revisionists received Rs. 12 lakh as an advance from the complainant and put their signatures on agreement paper. It is further alleged that Rs. 6,50,000/- was also given to the revisionists on various dates by the complainant, total amounting to Rs. 21,65,000/- but the revisionists did not execute the sale deed in favour of the complainant rather misappropriated the money and also manhandled him. Hence, the present case.

3. On the basis of complaint filed by the Opposite party no. 2, Ld. Court below examined complainant and other enquiry witnesses and accordingly after enquiry, Ld. court below observed that a prima facie case is made out under section 323, 504 & 417 of Indian Penal Code against the accused persons namely (1) Sushil Kumar Bhagat, (2) Khagendra Prasad Bhagat and (3) Uday Kumar Bhagat and the office was directed to issue summons against the said accused persons after filing of proper requisites by the complainant. Being aggrieved by and dissatisfied with the impugned order dated 19.07.2023, the instant criminal revision has been preferred.

4. Ld. Counsel appearing on behalf of revisionist submitted that the impugned order is bad in law as well as on facts and there is major contradiction in the statement of O.P. No. 2 and written complaint. O.P. No. 2 Abdul Khabir has already filed a title suit being Title Suit No. 244/2022 on 09.12.2022 against the revisionists and during the pendency of said title suit, O.P. No. 2 has also filed a criminal case against the revisionists which suffers from double jeopardy. It is further submitted that there is no sufficient grounds to prosecute the revisionists in criminal case as the case is purely civil in nature for which O.P. No. 2 has already filed a Title Suit. It is further submitted that the allegation brought by O.P. No. 2 Abdul Khabir is false and the revisionists never received any



money from the O.P. No. 2. It is further submitted that the O.P. No. 2 has lodged the present criminal case after lapse of 10 years which is barred by limitation. As such, impugned order dated 19.07.2023 passed by Ld. Magistrate is fit to be set aside.

5. The Ld. PP on behalf of the State has submitted that there is no illegality in the order passed by the Trial Court and prayed to dismiss the revision application.

6. Heard the Ld. P.P. and perused the case record. It appears that the present criminal revision has been filed by the revisionists on 07.05.2024. However, prior to filing of the present revision petition and after passing of the impugned order dated 19.07.2023, all the revisionists appeared before the learned court below on 08.02.2024 and charges were framed against them for the offence U/Sec. 323, 504, 417 of the I.P.C. vide order dated 08.02.2024. Thereafter, on 03.04.2024, revisionists had filed their attendance in the present case and one witness was examined and cross-examined which suggest that the revisionists were well aware of the proceedings of the present complaint case.

7. After filing of the present complaint case, statement of complainant was recorded on oath and inquiry witnesses were examined under Section 202 Cr.P.C. From the perusal of the LCR, it appears that complainant and her inquiry witnesses have supported the case of the complainant.

8. The object of the provisions of revision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinize the orders which upon the face of them bear a token of careful consideration and appear to be in accordance with law. Revisional Jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is



exercised arbitrarily or perversely. Another well accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. The revisional jurisdiction of the Court u/s 397 CrPC can be exercised where there is palpable error, non-compliance with the provisions of law, the decision is completely erroneous or where the judicial discretion is exercised arbitrarily. In the present case, Ld. Magistrate has found prima facie case against the accused persons namely (1) Sushil Kumar Bhagat, (2) Khagendra Prasad Bhagat and (3) Uday Kumar Bhagat and the office was directed to issue summons against the said accused persons after filing of proper requisites by the complainant. Thereafter, charge has been framed against the accused persons and one witness has also been examined and cross-examined. It is settled position in law that once the trial court has framed charges, the challenge to the summoning order generally loses significance and criminal proceedings progress through stages, i.e. when a later judicial stage (framing of charge) has already occurred, the earlier stage merges into it. It is also settled position in law that at the stage of charge, the court again applies its mind to the material and finds sufficient grounds to proceed, as such, the correctness of summoning becomes secondary and Revisional court avoids interfering because the trial court has already applied its mind again at the charge stage.



9. Considering all the above facts and circumstances of the case as well as discussions made above, this Criminal Revision is hereby dismissed and the impugned order dated 19.07.2023, passed by Smt. Kavita Kumari, J.M. 1st Class, Katihar in Complaint Case No. 209/2023, is not required to be interfered.

10. Accordingly, present revision petition is **DISMISSED** and disposed of.

11. Office is directed to send the copy of this order to the Trial

Court along with the LCR immediately. Office is also directed to consign the record of this revision application into the record room.

The order is dictated and corrected by me.



Ranvir Singh
6.5.26

(RANVIR SINGH)
PRINCIPAL SESSIONS JUDGE,
KATIHAR
Dated: 06.05.2026

WEB COPY CIVIL COURT, KATIHAR