

IN THE COURT OF DISTRICT & ADDITIONAL SESSION JUDGE-III,

KATIHAR

Civil Courts Katihar

Present-
SUNIL KUMAR SINGH-III
DASJ-III Cum SPECIAL JUDGE,
MP/MLA COURT, KATIHAR

Date of Order- 24th Day of July 2026

Criminal Revision Case No- 87 of 2023

[Arising out of Order dated 19.07.2022 and 01.06.2023 Passed by Ld. CJM, Katihar in
Complaint Case No-2702/2017]

In the matter of-

1. Mosmat Smita Kumari, Aged about 43 Years, W/O-Lt. Sanjay Kumar Bhagat, R/O-
Mohalla-Anathalaya Road, Lochi Bagan, PS-Nagar Katihar, Dist-Katihar, Bihar,

.....Revisionist/Petitioner

Represented By- Sri Tinku Kumar, Learned Advocate,

Versus

1. State of Bihar,
2. Navin Gupta, Aged about 50 Years, S/O-Lt. Satya Narayan Gupta, R/O-Mohalla-New
Market, PS-Katihar, Dist-Katihar, Bihar,
3. Pradip Kumar Bhagat, Aged about 55 Years, S/O-Lt. Jali Prasad Bhagat, R/O-
Mohalla-Binodpur, PS-Katihar, Dist-Katihar, Bihar,

.....Opposite Party

Represented By- Sri Akhilesh Kumar, Learned Additional PP

ORDER

1. The present revision application is preferred against the order passed by Ld. CJM, Katihar, on 19.07.2022 and 01.06.2023 in Complaint Case No-2702/2017 by which the petition of the complainant filed U/Sec 311 of CrPC allowed on cost.
2. The case of the petitioner in brief is that petitioner/complainant filed a complaint case no-2702/2017 against the accused Navin Kumar Gupta and Pradip Kumar Bhagat in which Ld. CJM, Katihar took cognizance U/Sec 452, 323, 380, 504, 506 and 354 of IPC on 09.02.2018 and directed to issue summon against the accused persons. Even after summon, accused did not turn up and they filed Anticipatory Bail vide ABP No-774/2018 before the court of Session Judge which was allowed on 25.05.2018. After it, accused turn up before the court of CJM, Katihar on 29.05.2018 and their bail-bond was accepted. After it, the case was fixed for before charge evidence and she adduced witness namely Bino Singh on 06.09.2018 who was discharged after examination. Further, it has been submitted that two witnesses namely Jawahar Bhagat and Dhiraj Kumar went out of station for urgent work and so she could not adduce them. She filed attendance of witness on 03.10.2018, 26.11.2018 and 08.01.2019 but due to overload in court, they could not be examined. Further, she file time petition but court closed her evidence on 30.05.2019. She had no knowledge of this order and so she filed list of documents for documentary evidence on 30.07.2019. After having knowledge, she filed petition U/Sec 311 of CrPC and without hearing the complainant, court allowed her petition with a direction to deposit Rs 2000/- in Nazarat and Rs. 2000/- payable to Defense counsel. Being aggrieved with this order, she filed a petition on 17.11.2022 to remit the cost but the Ld. CJM rejected this petition on 01.06.2023 and imposed extra cost of rs 500/- which is not justifiable. Hence, it has been prayed to remit the cost amount of Rs 4500/- awarded by Id. CJM, Katihar and allow the revision application.
3. On the other hand, the LD. APP on behalf of the State argued that there is no illegality in the order passed by the trial court and prayed to dismiss this revision application.


24.07.26

4. **Heard** the Learned APP on behalf of State and Ld. Counsel of the petitioner and perused the case record. The said revision has been filed against the order dated 19.07.2022 and 01.06.2023 by which petition filed U/Sec 311 of CrPC on behalf of the complainant was allowed with cost.

5. It appears that complainant adduced first witness on 06.09.2018. After it, she filed attendance of witnesses on 03.10.2018, 26.11.2018 and 08.01.2019 but they could not be examined due to overload of the court work. It means that there was no fault on the part of the petitioner/complainant. After it, complainant caused delay and so court closed the before charge evidence on 30.05.2019. After having knowledge of the fact, complainant filed petition U/Sec 311 of CrPC on 30.07.2019 but it was decided on 19.07.2022 i.e. after three years. However, the petitioner herself admitted this fact that she was absent and so that hearing could not be completed in time. By order dated 19.07.2022, the petition of the complainant was allowed at the cost of Rs 4000/- with a direction to deposit Rs 2000/- in Nazarat and Rs 2000/- payable to Defense counsel. When she filed another petition to remit the cost then on 01.06.2023, court imposed extra cost of Rs 500/-.

6. From the perusal of the record, it is apparent that certainly there is some delay on the part of the petitioner/complainant in adducing the witnesses as well as being attentive for hearing of her petition but there is no logic to pay the cost to defence counsel. The sufferer of the delay caused by the complainant is the accused and not his counsel. Apart from it, the awarded cost must be given either to the sufferer or to the DLSA/Government Fund. On any account cost given to the Defence counsel cannot be justified. Further, the prayer of the petitioner to remit the cost was rejected with extra cost of Rs 500/- and it can also be not justified.

7. Considering all the facts and circumstances of the case as well as discussions made above, this court is of the considered view that cost must be reasonable and according to capacity of the parties. Hence, the cost of Rs 500/- imposed vide order dated 01.06.2023 and further the cost of Rs 4000/- imposed vide order dated 19.07.2022 is also remitted. **Therefore, the present Criminal Revision having No- 87/2023, is hereby allowed with above direction.**

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


(Sunil Kumar Singh-III)
DASJ-III Cum SPECIAL JUDGE,
MP/MLA COURT,
KATIHAR
Date-24.07.2026