

In the court of Addl. Sessions Judge II, Patna
Criminal Rev.-707/2025
(Arising out of Complaint Case No.- 10392 of 2023)

Gopal Sharan Bhartia..... Petitioner
Vrs.
State of Bihar and another.....Opposite Parties

Order

24.06.2026 Hazari on behalf of the petitioner and opposite party no. 2 filed.

Case record was put up for passing order in the instance case.

This criminal revision filed by the Gopal Prasad Bharatiya aged about 55 years, S/o Sadhu Sharan, R/o Dash Lane, East Lohanipur, PS- Kadamkuan, Dist.- Patna against the order dated 30.10.2024 passed by Smt. Prena Shilpa, JMFC under which the complaint case filed by the complainant was dismissed under the provision of 203 of Cr.P.C.

Case revisionist is in brief is that a complaint petition filed by the revisionist Gopal Sharan Bharatiya against the accused Arvind Kumar in the court of Ld. CJM, Patna and same was transferred to the Court of Smt. Prena Shilpa, JMFC-10 for inquiry and disposal from the court of Ld. CJM, Patna.

Further case of revisionist is that in the court of Ld. JMFC on several dates complainant remained present for S.A. but Ld. Court below did not record the statements of complainant on S.A. by saying that today is not possible to record of S.A. thereafter case record became trace less and revisionist was not aware about the actual date of the case. Later on revisionist try to get the actual status of case record but case record was not made available to him then ultimately a inspection slip vide Sl. No. 130 dated 20.02.2025 filed before the registrar for inspection of the case record but despite of the best efforts the required case record was not made available to the revisionist's lawyer.

Further case of revisionist is that revisionist's counsel was inform by the office clerk of the said court that the complaint case was dismissed due to non prosecution on 30.10.2024. Thereafter on 04.09.2025 chirkut was filed and the certified copy of order sheet was obtained on 26.09.2025 thereafter this criminal revision was filed with petition for condonation of delay praying there in that without giving reasonable opportunity to the complainant for giving statement of S.A. the aforesaid complaint was dismissed due to non prosecution.

It is further prayed the aforesaid impugned order is not proper and also not based on merit therefore some opportunity may be given to the complainant to get recorded his statement on S.A. and also production of the another witnesses setting aside the impugned order.

Opposite party no. 2 appeared before the court and filed his rejoinder on

10.04.2026 stating therein that the this revision petition has been filed with 340 days delay which is bard by the law of the limitation and no any cogent reason has been assigned either in this revision petition or in delay condonation petition. It has been further contended that despite of the repeated direction of the court complainant did not turn up before the court to get recorded his statement on SA nor he produced any oral and documentary evidence in support of his case. Considering the materials available on case record the learned Judicial Magistrate has rightly dismissed the complaint petition of the revisionist. The Ld. Court below has passed correct order and no needs to interfere in the impugned order therefore aforesaid revision petition is may be dismissed.

Heard the Learned counsel for revisionist as well as opposite parties.

Ld. Counsel for the petitioners submits that on perusal of the trial court case record it would appear that on 15.01.2024 the complaint case of the complainant was transferred to the court of Mis. Prena Shilpa, JMFC, Patna for inquiry, trail and disposal fixing the next date on 06.02.2024 and case record was received in the file of the court of Ld. Judicial Magistrate on 02.02.2024 but on perusal of the case record it would appear that on 06.02.2024 no any order sheet drawn by the Ld. Judicial Magistrate and next date was fixed on 29.02.2024. On the such date complainant was present but PO was on CL.

The Learned counsel further contends that on 29.02.2024 next date was fixed on 18.03.2024 but on the such date due the sad demise of one of the Advocate, the all Advocates of bar association, Civil Court, Patna refrained themselves from judicial work and due to which on the such date S.A. of the complainant was not recorded thereafter on 18.04.2024 case was fixed and on the such date complainant turned up before the court to get recorded the S.A. but on the such date presiding officer was on CL and next date was fixed on 29.04.2024.

It has been further contended by the Ld. Counsel that on 29.04.2024 complainant was present but he was not called to get recorded his S.A. and next date was fixed on 21.05.2024 on the such date complainant was made pairvi and he was present out side of the court room but he was not called by the court and next date was fixed on 18.06.2024, on the such date due to some reason complaint was absent thereafter case record was fixed on 04.07.2024 and thereafter on 20.07.2024. On both the dates complainant was present but his S.A. was not recorded nor on both the dates no any order sheet was drawn and next date was fixed on 17.08.2024 on the such date complainant was present but his statement on S.A. was also not recorded.

Thereafter case was fixed on 07.09.2024 but on the such date PO has gone on training and next date was fixed on 30.09.2024 on the such date due to some region complainant was not present and on the such date complainant was directed to do proper pairvi and also remained physically present in the court of recording

his S.A. and on next date was fixed on 08.10.2024 complainant was present but PO was on CL and next date was fixed on 30.10.2024 and in margin of the order sheet of the such date it has been drawn that several opportunity have been given to the complainant to do proper pairvi and to record his S.A. but neither complainant nor his Ld. Counsel turned up before the court on calling the case. Therefore inquiry of the case was closed and on the such date an order was passed by the Ld. Magistrate under which the aforesaid complaint petition was dismissed under the provision of 203 of the Cr.P.C.

The Ld. Counsel further contends that from the aforesaid facts and circumstances it would appear that the complainant was regularly remained doing pairavi and appeared in person before the court to get recorded his statement on his S.A but knowingly and intentionally the S.A. of the complainant was not recorded by the Ld. Magistrate and he was also not given opportunity to produce the another witnesses to prove his case and suddenly on 30.10.2024 the complaint case was dismissed by the Ld. Magistrate when complaint came to know that his complaint case was dismissed then he applied for taking the certify copy the aforesaid order but record was not sent to the copying department saying that no order has been passed thereafter the Ld. Counsel for revisionist filed the inspection slip to inspect the case record on 20.02.2025 and after several request made by the revisionist's lawyer to the OC of the Ld. Court then revisionist's lawyer was informed by the office clerk that the aforesaid complaint case has been dismissed thereafter on 04.05.2025 he filed chirkut to obtain the certify copy of order and he obtained the certified copy of order on 26.09.2025 due to which this revision petition was filed with delay. It has been further prayed by the Ld. Counsel that considering the above facts and circumstances the impugned order may be set aside condoning the delay.

The Ld. Counsel for OP no. 2 vehemently opposed the argument of the Ld. Counsel for complainant and submits that the order passed by the Ld. Counsel is correct and legal. Several opportunities have been given to the complainant to get recorded his S.A. and produced his inquiry witnesses but complainant did not appear before the court to get recorded his statement on S.A. and ultimately on 30.10.2024 the aforesaid complaint case was dismissed not finding any material on case record. The Ld. Magistrate rightly passed the order.

Ld. Counsel further contends the order was passed on 30.10.2024 but on 04.09.2025 complainant applied for the certify copy of the aforesaid impugned order at about after one year the complainant obtained the certify copy. This conduct of the complainant shows that he was reluctant towards his case and the instance revision case was filed with 340 days delay and no any region has been assigned by the complainant in his petition only therefore merely on this ground the revision petition may be dismissed.

Peruse the case record as well as the trial court case record. On perusal of the order sheets of the trial court case record it appears that it has been mentioned in

the entire order sheet that pairvi of the complainant filed thereafter case was adjourned for next date no reason was assigned in the order sheet under what circumstances case was adjourned without recording the S.A. of the complainant while complainant was present. The case record further reveals in the order sheet of 04.07.2024 and 20.07.2024 no any order sheet was drawn and order sheet of the aforesaid both the dates are blanks. This shows gross negligence towards judicial work. The Learned Magistrate is directed to be vigilant and conscious in future toward her judicial works. I also perused the impugned order from which it appears that the complainant case of the revisionist was not dismissed on merit rather due to non prosecution.

Having consider the above facts and circumstance as well as the material available in the trial court case record and also in the view of the arguments advanced by the Ld. Counsel for both the parties. This court arrives on conclusion that the impugned order has been passed without giving opportunity to the complainant to get recorded his S.A. as well as the statements of inquiry witnesses. Therefore aforesaid impugned order is set aside allowing condoning the revision the delay and Ld. Magistrate directed to conclude inquiry within four week after receipt the copy of order and complainant is also directed to be present on each and every date as fixed by the court of Ld. Trial court and also co-operate to the court in inquiry. Such as this revision petition is disposed of.

Let the copy of the order along with trial court record be sent to the court of Smt. Prena Shilpa, JMFC, Patna.

Dictated and corrected by me

(Dhananjay Kumar Mishra)
Additional Sessions Judge II
Patna

Sd/-
Additional Sessions Judge II
Patna