

Present : Kanhaiya Jee Choudhary
Sessions Judge,Purnea.
Criminal Revision No. 133 of 2025/CIS No.133 of 2025
(arising out of Baisi P.S. Case No.257 of 2024)
Rajendra Prasad Sah and another Versus State of Bihar and another
Date of Order : 26.3.2026

In the Court of Sessions Judge,Purnia.

Criminal Revision No.133 of 2025/CIS No.133 of 2025

1. Rajendra Prasad Sah S/o Late Chhovi Lal Sah, aged about 69 years.
2. Sarvesh Kumar @ Banti S/o Rajendra Prasad Sah, aged about 45 years.
Both R/o village Harintor, P.S. Baisi, District Purnea. .. Petitioners.
- Versus
1. State of Bihar
2. Prakash Chandra Sah, aged about 50 years S/o Late Jagdish Sah of village Harintor, P.S. Baisi, District Purnea. \ .. Opp. Parties.

Revision against the order dated 4.6.2025 passed by the
learned S.D.J.M.-I, Purnea in Baisi P.S. Case No.257 of
2024.

For the petitioners	:- Sri Sujit Kumar, Advocate.
For the O.Party No.1	:- Sri A.K. Tiwary, P.P.
For the O.Party No.2	:- Sri Abdul Monu, Advocate.

ORDER

1. This Criminal revision has been preferred u/s 438 and 440 of the BNSS by the petitioner named above against the order dated 4.6.2025 passed by the learned S.D.J.M., Purnea in Baisi P.S. Case No.257 of 2024, whereby and where under the learned Magistrate, Purnea has found prima-facie materials for the offence under sections 126(2), 115(2), 352, 351(2) and 3(5) of the BNS against the petitioners named above and ordered to issue summon against them to face trial.
2. Heard the learned counsel Sri Sujit Kumar, appearing on behalf of the petitioners, Sri A.K. Tiwary, P.P. and Sri Abdul Monu, the learned counsel appearing on behalf of O.P. No.2.
3. On the written complaint of informant Prakash Sah, FIR lodged two accused persons including petitioners herein, it is case of prosecution that Informant had kept maize in the accused's Rajendra Sah godown on rent. The accused locked the godown and had gone outside. Informant requested from the said accused to open the godown and said accused told that he will do so after he comes back from treatment. Accused Rajendra Sah

Present : Kanhaiya Jee Choudhary
Sessions Judge, Purnea.
Criminal Revision No. 133 of 2025/CIS No.133 of 2025
(arising out of Baisi P.S. Case No.257 of 2024)
Rajendra Prasad Sah and another Versus State of Bihar and another
Date of Order : 26.3.2026

after returned from treatment started to refuse to unlock the godown and demanded rangdari of Rs.30,00,000/- or to forget the foodgrains. On 3.9.2024 at about 4.30 P.M., accused Rajendra Sah and his son Sarvesh Sah @ Banti came to the house in absence of the Informant and molested the Informant's daughter. Accused Sarvesh was having country made pistol in his hand and Rajendra Sah was having sword in his hand and accused Rajendra Sah gave pointed sword blow on the neck of second daughter of the Informant with intention to kill her and accused Sarvesh pointed pistol on the temporal region of Informant younger and tried to out-rage her modesty. When Informant reached to his house then accused persons fled away and during that course Sarvesh Sah sustained injury from electricity pole and fell down and caught Rajendra Sah.

4. The learned counsel of revisionists submitted that the impugned order is illegal and bad in the eye of law as well as on the facts and circumstances of this case. He also submitted that the learned court below did not scrutinized the evidence of the prosecution witnesses nor applied his judicial mind on the evidence and passed the impugned order in mechanical way. He also submitted that as a matter of fact, the O.P. No.2 lodged the present FIR on 4.9.2024 and thereafter, he again lodged the another FIR bearing Baisi P.S. Case No.258 of 2024 against the same petitioners for or less an on the same allegation. Petitioner No.1 on the same day has lodged Baisi P.S. Case No.256 of 2024 against the O.P. No.2 and his associates with allegation that they wrongfully confined the petitioners in a room and brutally assaulted them resulted which the petitioner No.1 sustained serious injuries and police recovered the petitioner No.1 from the room of O.p. No.2, where he was confined and later, was admitted to Baisi Hospital. So, the present case is counter blast of Baisi P.S. Case No.256 of 2024 and all three cases are pending before the learned SDJM, Purnea. He also submitted that O.P. No.2 had taken godown in the residential campus of petitioner No.1 on rent for a fixed period starting from 1.4.2023 to 31.1.2024 and with the expiration of that period, the O.P. No.2 had to hand over the said Godown to petitioner No.1. The petitioner No.2 with the help of his father, petitioner No.1 stored foodgrains worth Rs.50,00,000/- in that godown from business purpose and O.p. No.2 under the conspiracy and in collusion with the local police made a plan to claim and desit the

Present : Kanhaiya Jee Choudhary
Sessions Judge, Pura.
Criminal Revision No. 133 of 2025/CIS No.133 of 2025
(arising out of Baisi P.S. Case No.257 of 2024)
Rajendra Prasad Sah and another Versus State of Bihar and another
Date of Order : 26.3.2026

foodgrains as such, he one by one lodged both the cases and succeeded to get released the foodgrains of the petitioners. Wife of Petitioner No.1 is real owner of the godown. The learned court below without going through the case diary, took cognizance against this petitioner without any legal evidence. So, prayed to set aside the impugned order relating to this petitioner.

5. On behalf of O.P.No.1, the learned P.P. assisted by the learned counsel of O.P. No.2 submitted that the impugned order is well discussed and there is no need to interfere in the impugned order. The learned P.P. has submitted that the impugned order is well discussed and there is no illegality or irregularity in the impugned order and the learned court below after applying his judicial mind has passed the impugned order. The learned P.P. has submitted that at the stage of taking cognizance, the court below is not required to assign reason-the Magistrate is only required to look into the allegation made in the FIR or evidence led in support of the same and is only required to be satisfied that there are sufficient grounds for proceeding against the accused. The ground for setting aside the impugned order taken by the learned counsel of the petitioner is not substantive piece of evidence at this stage rather the same is matter of trial. Therefore, there is no illegality or irregularity in the impugned order. So, prayed to dismiss the instant Criminal Revision.

6. Now I want to discuss some observation of Hon'ble Courts with guideline to Magistrate, while taking cognizance.

In the case of Pushparaj Versus Subbanna reported in 2001 CRLJ 3601 (Kant), the Hon'ble Court have held that where prima facie case for summoning the accused is made out, dismissal of the complaint on consideration of minute discrepancies is erroneous.

In the case of Dhruv Narayan Singh versus State of Bihar reported in 2001 CrLJ 2448 (Jharkhand), the Hon'ble Court have held that only prima facie case is to be seen, the merits/demerits of the case are not to be examined at this stage."

7. In the case of State of Gujarat Versus Mohammed Hasanfatta reported in (2020) 3 Supreme Court Cases (Cri) 876, the Hon'ble Court have held that Issuance of summons to accused-Requirement of satisfaction of Magistrate regarding sufficiency of

Present : Kanhaiya Jee Choudhary
Sessions Judge, Purnea.
Criminal Revision No. 133 of 2025/CIS No.133 of 2025
(arising out of Baisi P.S. Case No.257 of 2024)
Rajendra Prasad Sah and another Versus State of Bihar and another
Date of Order : 26.3.2026

ground(s) to proceed- Standard of proof required for such satisfaction-Strict standard of proof, held, no required-Such satisfaction would be based only on prima facie evidence-- Before summoning the accused, the facts stated will have to be accepted as they appear on the very face of it.

In the Case of Jhulan Yaav @ Jhulan Singh and another Versus State of Bihar and another reported in 2022(3) PLJR, our Hon'ble Court have held that at the stage of taking cognizance, the court below is not required to assign reason-the Magistrate is only required to look into the allegation made in the complaint or evidence led in support of the same and is only required to be satisfied that there are sufficient grounds for proceeding against the accused.

8. Perused the record, photostat copy of the LCR and case diary of Baisi P.S. Case No.257 of 2024 and Baisi P.S. Case No.259 of 2024, which is attached with the Record of Cr.Rev.131 of 2025. From perusal of the same, it appears that Baisi P.S. Case No.257 of 2024 has been registered for the offence under sections 127(1), 76, 308(3), 352, 351 and 3(5) of the BNS against the petitioners on the basis of written complaint of the Informant Prakash Sah for the occurrence alleged to be taken place on 3.9.2024 at about 4.30 P.M. I.O. after completing investigation, submitted chargesheet against the petitioners/accused persons for the offence under sections 126(2), 115(2), 74, 352, 351(2) and 3(5) of the BNS and the learned court below after hearing the prosecution on the point of cognizance and on the basis of materials available on record and case diary, took cognizance for the offence under sections 126(2), 115(2), 352, 351(2) and 3(5) of the BNS against the accused persons/petitioners vide order dated 4.6.2025. Being aggrieved from the said order by the accused persons/petitioners, petitioners have preferred the instant Criminal Revision for setting aside the impugned order mainly on the ground that for the similar type of offence, Informant has lodged this case as well as Baisi P.S. Case No.257 of 2024 and parrel of two cases for similar date and time of occurrence are not justified in the eyes of law. From perusal of record of Baisi P.S. Case No.257 of 2024, I find that Informant has lodged a case on 4.9.2024 for the occurrence dated 3.9.2024 alleged to be committed by the accused persons/petitioners with the Informant Prakash Chandra Sah and Baisi P.S. Case No.259 of 2024 dated 5.9.2024 has

Present : Kanhaiya Jee Choudhary
Sessions Judge,Purnea.
Criminal Revision No. 133 of 2025/CIS No.133 of 2025
(arising out of Baisi P.S. Case No.257 of 2024)
Rajendra Prasad Sah and another Versus State of Bihar and another
Date of Order : 26.3.2026

lodged by the Informant against the accused persons for the occurrence alleged to be committed by the accused persons on 2.9.2024 and both the occurrence seems to be alleged to be committed by accused persons on different dates and in both the cases, I.O. have submitted chargesheet against the accused persons and accordingly, the learned court below on the basis of materials available on record and case diary, took cognizance against the accused persons. It is settled principle of law that for determining the question whether any process is to be issued or not, what the Magistrate has to be satisfied is whether there is sufficient ground for proceeding and not whether there is sufficient ground for the conviction ? Whether the evidence is adequate for supporting the conviction can be determined only at the trial and not at the stage of taking cognizance. The cognizance is taken of offence. So, the order passed by the learned court is good, correct and legal. The question of involvement of petitioners as per case diary, there is sufficient evidence to make out a prima-facie against the petitioner also. Hence, learned court below has rightly passed the impugned order and found prima-facie case under the aforesaid sections against the petitioner and others and requires no interference by this court in the impugned order of cognizance passed by the learned court below. There is no irregularity and illegality in the impugned order.

9. After analyzing the materials available on the record as discussed above, I find that the impugned order dated 4.6.2025 passed by the learned Magistrate in Baisi P.S. Case No.257 of 2024 is just and proper as per provision of law and requires no interference by this court. Accordingly, the instant criminal Revision is, hereby, dismissed.

(Dictated & Corrected by me)

Sd/-

Sessions Judge, Purnia.
26.3.2026

Date of Order	26.3.2026
Date of Reserving Judgment/ order	17.03.2026
Uploading Date	10.4.2026
Uploaded by	Kumar Sanjay, Steno