

Kanhaiya Jee Chaudhary
Sessions Judge,Purnea.
S.Trial No.589 of 2025
(arising out of Mirganj P.S. Case No.31 of 2020)
State Versus Dinesh Yadav @ Tundun Yadav
Order Dated 07.07.2026.

In the Court of Sessions Judge, Purnea.
S.Trial No.589 of 2025/CIS No.589 of 2025
State Versus Dinesh Yadav @ Tundun Yadav

07.7.2026 Sole accused files his hajri.

2. Petition dated 9.1.2026 u/s 227 of the Cr.P.C. filed on behalf of the accused/petitioner,namely,Dinesh Yadav and same is put-up for hearing.

3. Heard Sri Subhash Pathak, the learned counsel of the petitioner/accused and Sri A.K.Tiwary, the learned P.P. appearing on behalf of the State and perused the record and case diary..

4. As per written report of the Informant Ghoghan Sharma,the prosecution case,in brief, is that on 9.6.2020 at about 11 A.M., son of the Informant,namely, Jyotish Kumar, aged about 12 years was coming to his house from Dumaria. In the meantime, co-villager of the Informant Dinesh Sharma @ Tuntun Yadav due to rash and negligent driving of his TVS Mopade dashed the son of the Informant from the back side due to which son of the Informant Jyotish Kumar died on the spot and accused/petitioner fled away from there with his motor-cycle. On the basis of written report of the Informant,Mirganj P.S. Case No.31 of 2020 dated 9.6.2020 was registered for the offence under sections 279/304(A) of the IPC. I.O.after completing investigation, submitted chargesheet vide CS No.60 of 2022 dated 31.5.2022 against the sole accused finding the case true for the offence under sections 279 and 304 of the IPC before the learned C.J.M.,Purnea. The learned court below after hearing and perusal of the record and case diary, vide order dated 20.12.2022 took cognizance for the offence under sections 279 and 304 of the IPC against the accused/petitioner and committed the case to the court of Sessions vide order dated 17.10.2025 for trial and disposal as offence u/s 304 of the IPC is exclusively triable by the court of Sessions. After commitment, the instant case record has been received before this court 29.10.2025 being numbered as Sessions Trial No.589 of 2025. During pendency of

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the trial, a petition has been filed on behalf of the accused/petitioner u/s 227 of the Cr.P.C. stating therein that no offence under sections 279/304 of the IPC is made out in this case rather at best offence u/s 279 and 304(A) of the IPC are made out and the same is exclusively triable by the Magistrate and prays to remit back the case record to the learned court below for trial and disposal.

5. The learned counsel of the petitioner has submitted that from the recital of the written report of the Informant as well as materials available on record, it is a case of rash and negligent driving of the driver of the motor-cycle and at best prima-facie for the offence under sections 279 and 304(A) of the IPC are made out against the accused/petitioner but the learned Magistrate without applying his judicial mind took cognizance in this case for the offence under section 279 and 304 of the IPC, which is not proper under the facts and circumstances of the case. He also submitted that there is no materials available on record to frame charge for the offence under sections 279 and 304 of the IPC rather at best there are sufficient materials available on record and case diary to frame charge for the offence u/s 279 and 304(A) IPC against the accused/petitioner and same are triable by a Magistrate. So, prayed to remitted back case record of the accused/petitioner to learned court below for trial and disposal.

6. On the other hand, learned P.P. has opposed the prayer of the learned counsel of the accused person/petitioner by filing rejoinder to the said petition and has submitted that petition dated 9.1.2026 filed on behalf of the accused/petitioner is not at all maintainable in view of the facts as well as eyes of law. There are sufficient material against the accused for framing charge u/s 279 and 304 of the IPC. Witnesses have supported the prosecution version regarding rash and negligent driving of the motor-cycle by the accused/petitioner and dashed the minor son of the Informant due to which son of the Informant died on the spot. Thereafter, accused/petitioner fled away from the place of occurrence uncared manner. I.O.after completing investigation, submitted chargesheet against the accused/petitioner finding the case true for the offence u/s 279 and 304 of the IPC and accordingly, the learned court below took cognizance against the accused/petitioner under the

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aforesaid offences and committed the case record of the petitioner to the court of Sessions for trial and disposal. He also submitted that there are ample evidence available on the record as well as case diary against the petitioner to frame charge for the offence under sections 279 and 304 of the IPC. Therefore, petition dated 9.1.2026 filed on behalf of the petitioner have got no merit and prayed to reject the same under the aforesaid facts and circumstances of the case.

7. I would like to refer sections 227 and 228 of the Cr.P.C., which are as follows :-

“ **227. Discharge.** If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.”

(1) If, after such consideration and hearing as aforesaid, the Judge is of opinion that there is ground for presuming that the accused has committed an offence which-

(a) is not exclusively triable by the Court of Session, he may, frame a charge against the accused and, by order, transfer the case for trial to the Chief Judicial Magistrate, 1 [or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit, and thereupon such Magistrate] shall try the offence in accordance with the procedure for the trial of warrant-cases instituted on a police report;

(b) is exclusively triable by the Court, he shall frame in writing a charge against the accused.

(2) Where the Judge frames any charge under clause (b) of sub-section (1), the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.”

8. **In the case of Ram Bahadur Shahi Versus State of UP reported in 1988 All.LJ 451**, the Hon’ble High Court has been pleased to observe that the stage of section 227 of the Cr.P.C. is only for the purpose of deciding prima facie whether the court should proceed with the trial or not. The accused at this stage cannot insist

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upon summoning some documents favourable to the defence or on the ground that they may create some suspicion in the prosecution case while making its submissions under section 227.

In the case of **Smt. Sona Kanwar Versus State of Rajasthan reported in 1998(1) Crimes 456 (Raj)**, the Hon'ble High Court have been pleased to observe that at the stage of framing of charges the court has to consider the material with a view to find out if there is ground for proceeding against accused."

In the case of **Palwinder Singh Versus Balwinder Singh reported in AIR 2009 SC 887(889)**, the Hon'ble Apex Court have held that it is not open to the court to appreciate evidence at the stage of framing of charge.

9. At this stage, it is not necessary for the prosecution to establish the case beyond all reasonable doubt.

In the case of State of Rajasthan Versus Fatehkaran Mehdu reported in 2017 CrLJ 1433 (SC), the Hon'ble Apex Court have observed as follows :-

"At the stage of framing of a charge, the Court is concerned not with the proof of the allegation rather it has to focus on the material and form an opinion whether there is strong suspicion that the accused has committed an offence, which if put to trial, could prove his guilt. The framing of charge is not a stage, at which stage final test of guilt is to be applied. Thus, to hold that at the stage of framing the charge, the Court should form an opinion that the accused is certainly guilty of committing an offence, is to hold something which is neither permissible nor is in consonance with scheme of Code of Criminal Procedure."

10. Having heard the rival submissions of both the parties and perused the record, LCR and case diary. It appears that Informant has alleged in his written report that due to rash and negligent driving of Mopade by the accused/petitioner dashed the son of the Informant Jyotish Kumar due to which son of the Informant died on the spot. Thereafter, this petitioner being co-villager of the Informant fled away from there with alleged vehicle. Initially, this case has been registered for the offence under sections 279 and 304(A) of the IPC but I.O.after

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completing investigation has submitted chargesheet against the petitioner finding the case true for the offence under sections 279 and 304 of the IPC and the learned court below on the basis of materials available on record and case diary, took cognizance against the petitioner/accused for the offence under section 279 and 304 of the IPC. At para 9 of the case diary, Narayan Yadav is an eye witness of the incident and has supported the prosecution version as well as act of this accused/petitioner. Other witnesses have also supported the prosecution version regarding involvement of the accused/petitioner in the alleged occurrence as well as act of this accused/petitioner after the accident being co-villager of the Informant. Even the petitioner/accused does not possess valid Driving licence. Not having driving licence and driving the vehicle due to which caused accident and death of victim amount to culpable homicide not amounting to murder. Therefore, I find that there are sufficient materials against the petitioner to frame charges for the offence under sections 279 and 304 of the IPC.

11. Considering the aforesaid facts, circumstances of the case as well as principles laid down by the Hon'ble Court's, I find no merit in the petition dated 9.1.2026 filed on behalf of the petitioner filed on behalf of the petitioner u/s 227 of . Hence, petitions dated 9.1.2026 filed on behalf of the petitioner/accused Dinesh Yada @ Tuntun Yadav stands rejected. Put-up the record on 24.7.2027 for framing of charge. Accused is directed to remain physically present on the date fixed.

(Dictated)

Sd/-

Sessions Judge, Purnea
07.7.2026

Date of Order	7.07.2026
Date of Reserving Judgment/ order	7.07.2026
Uploading Date	10.7.2026
Uploaded by	Kumar Sanjay, Steno

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