

Present : Kanhaiya Jee Choudhary
Sessions Judge,Purnea.
Case No. : Cr.Rev. No.161 of 2025/CIS No.161 of 2025
(arising out of C.A. No.1360 of 2025)
Nazma Versus State of Bihar and 12 others
Date of Order : 07.3.2026

In the Court of Principal District and Sessions Judge,Purnia.

Criminal Revision No.161 of 2025/CIS No.161 of 2025

Bhagwan Sah,aged about 76 years S/o Late Bhoju Sah, R/o village Teliyari, P.S.
Bhawanipur, District Purnea. .. Petitioner.

Versus

1. State of Bihar
 2. Raj Kumar Sah @ Musharu Sah,aged about 50 years S/o Late Ayodhi Sah.
 3. Raj Nandan Kumar @ Ravi,aged about 32 years S/o Raj kumar Sah
 4. Bharat Kumar,aged about 22 years S/o Dinesh Sah.
 5. Murli Kumar, aged about 38 years S/o Kailash Sah
 6. Bindeshwari Sah,aged about 55 years S/o Late Pankaj Sah
 - 7.Gulshan Kumar,aged about 24 years S/o Late Pankaj Sah.
 - 8.Rajendra Sah,aged about 62 years S/o Late Kare Sah.
 - 9.Bipin Kumar,aged about 37 years S/o Arbind Sah.\
 - 10.Abhishekh Kumar,aged about 24 years S/o Sultan Sah.
 - 11.Mithilesh Sah,aged about 50 years S/o Late Etwari Sah.
 - 12.Khantar Kumar,aged about 26 years S/o Mithilesh Sah and
 - 13.Dilkhush Kumar, aged about 30 years S/o Sanjeev Sah.
- R/o O.P. Nos. 2 to 13 Teliyari, P.S. Bhawanipur,District Purnea. .. Opposite Parties.

Revision against the order dated 6.11.2025
passed by Sri Rahul Prakash, J.M.Ist Class, Purnea in
C.A. Case No.1360 of 2025.

For the petitioner :- Sri Shankar Kumar,Advocate.
For the O. Party No. 1 :- Sri A.K.Tiwary,P.P.
For the O.P. Nos. 2 to 13 :- Sri R.S.Jha,Advocate.

ORDER

1. This Criminal revision has been preferred by the petitioner/complainant, namely, Bhagwan Sah against the order dated 6.11.2025 passed by Sri Rahul Prakash, J.M.Ist Class,Purnea in C.A. Case No.1360 of 2025 for setting a side the impuged order and direct the learned court to pass afresh order as there is sufficient materials against all the accused persons (O.P. Nos. 2 to 13) named in complaint petition to make out a prima facie for the offence under sections 190,191,109,115,303,305,333,74,75,76,310 of the BNS and 27 of the Arms Act but the learned Magistrate,Purnea has only found sufficient materials to issue summon against the accused persons (O.P. Nos. 2 to 13) to face trail for the offence under

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sections 115(2),74,303,191(2),126(2),329(3),324(4) of the BNS and ordered the complainant to file requisites for issuance of summons against them to face trial, which is not proper in the the light of materials and evidences available on the record.

2. Heard the learned counsel Sri Shankar Kumar, appearing on behalf of the petitioner, Sri A.K. Tiwary, the learned P.P. appearing on behalf of the State and Sri R.S. Jha, the learned counsel appearing on behalf of O.Ps. No.2 to 13 and perused the record as well as LCR.

3. As complaint petition, the prosecution case, in brief, is that there is differences in between the complainant and accused persons named in the complaint petition as accused persons under a big conspiracy with intent to grab the land of the complainant started demanding the portion of the complainant's land, which was not acceptable to the complainant and his family members. In between the night of 15/16.4.2025 at about 11.30 P.M. to 2.30 A.M., all of a sudden all the accused persons named in the complaint petition including 100 persons by forming an unlawful assembly with their common intention of all having various armed came on the spot and criminally trespassed into the premises of the complainant and started committing theft and loot of the house hold articles mentioned in the complaint petition and also damaging and removing the houses thereon committed robbery and started assaulting and outrage the modesty of family members of the complainant. Accused persons brutally assaulted Lalita Devi and Soni Devi and wrongfully confined in a room four hours together. During the confinement, accused Bindeshwari Sah also attempted to commit murder of Lalita Devi and with that intention, he assaulted her pushed her down and wrapped Gamchha around her neck and climbed on her chest and pressed her neck due to which she became senseless, the doctor also found the bruise around the neck. Accused Gulsan Sah also pressed neck of Soni Devi resulting bruise near the neck. Complainant was also manhandled and was forced to keep quite by the accused Raj Kumar Sah on the point of fountry made gun, the other inmates of the house were assaulted and dragged at the place, where they all were wrongfully confined for a long time. It is further alleged that on the order of Raj Kumar Sah, all the accused persons and others started looting and committing theft of

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articles and at the same time, they damaged about 6 separated constructed houses by uprooting all all the fencing tatti, khootas etc. And by removing the entire Tin shade, which were finally cut in two pieces. Accused persons looted away house hold articles from his house. It is also alleged that Lalita Devi was brutally assaulted by the accused Bindeshwari Sah and Gulshan Kumar with intent to kill her and they out-raged her modesty. Accused Mithilesh Sah brutally assaulted to Soni Devi and snatched her ornaments and Mobiles. Both the injured ladies were taken to PHC Bhawanipur, where the doctor referred them to GMCH,Purnea for further treatment. Finally, the treatment of injured persons were made by a Private doctor. All the accused persons named and others under a big conspiracy have committed the occurrence of loot,assault,extortion,mischief and use of criminal force to women with intent to outrage her modesty, used unlicencee arms and ammunitions to create terror in the mind of public. The Revisionist/complainant being aggrieved from the said order has preferred the instant Criminal Revision for setting aside the impugned order of cognizance with a prayer to direct the learned court below to pass afresh order as there are sufficient evidences against all the accused persons to issue summon against them to face trial for the offence under sections 190,191,109,115,303,305,333,74,75,76,310 of the BNS and 27 of the Arms Act.

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. The learned court below without applying his judicial mind has passed the impugned order of cognizance in mechanical way without perusing the materials available on record as well as statement of the complainant on S.A. and enquiry witnesses and injury report of the injured Lalita Devi (EW-1) and Soni Devi (E.W.2). Complainant on his S.A. and other enquiry witnesses including the injured women have supported the allegations levelled against the accused persons. E.W.1 Lalita Devi being injured in the occurrence during the course of enquiry has supported factum of assault,her confinement and theft of ornaments by the accused persons and the said fact corroborated by E.W.2 Soni Devi being another injured lady. E.Ws. 3 and 4 being eye witnesses of the occurrence during the course of inquiry have

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also supported the case of the complainant. He also submitted that medical prescription of the GMCH,Purnea and Dr.Rajeev Ranjan, it is crystal clear that injured persons have sustained injuries on their respected persons including neck and said injuries corroborates the allegations levelled against the accused persons. Injury on the vital part of body of injured women shows the intention of the accused persons that accused persons assaulted the injured by wrapping gammacha in their neck with intention to kill them. All griedients are available to make the offence u/s 109 of the BNS in this case but the learned court below passed the impugned order in mechanical way, which is not proper for the ends of justice. In the case of Dhrub 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 to not be examined at this stage."So, prayed to set aside the impugned order and direct the learned court below to pass afresh order after considering the materials as well as evidences available on record.

5. On the other hand, the learned P.P. has submitted that the impugned order is well discussed and there is no need to interfere in the impugned order. The learned counsel below after considering all the facts has rightly passed the impugned order. He also submitted that there is land dispute between both the parties and a simple hot word altercation have been made between both the parties and complainant taking the aforesaid advantage has filed the instant complaint case with concocted story only with a view to put pressure upon the accused persons. He also submitted that one Parma Devi donated 6 decimal land to Hanuman Mandal and complainant wants to take possession of the said land due to which co-villagers restrained the complainant not to take possession of the said land. There is no intention to kill the complainant and his family members. 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 Vadilal Panchal Versus Ghadigaonkar reported in AIR 1960 SC 1113, the Hon'ble Apex Court of our country have held that the inquiry envisaged under

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sections 200 to 203 is for ascertaining the truth or falsehood of the complainant, that is, for ascertaining whether there is evidence in support of the complaint so as to justify the issue of process and not whether there is sufficient ground for conviction.

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 Madho Singh Versus Kamla Devi reported in 1992 Cr.LJ 1858 (Bom), the Hon'ble High Court have held that the object of the criminal law is to protect the innocent and punish the guilty. It is not the function of the Criminal Court to do anything with the dispute relating to the property. It is the function of the civil courts to decide the disputes relating to the property. Where the dispute is of civil nature, a Magistrate ought not to deal with it. But, there is nothing in law to prevent the criminal Court from taking cognizance of the offence provided the ingredients of the offence are made out on the face of the complaint. Merely because the person concerned is subject to civil liability, the criminal complaint is not to be dismissed even if the civil remedy is tenable.

7. Having heard the rival submissions of both the parties and perused the record, LCR, impugned order and photostat copies of medical prescription of the injured women, namely, Lalita Devi (EW-1) and Soni Devi (E.W.3) available on record, I find that complainant has filed C.A. Case No.1360 of 2025 against 12 accused persons and 80/85 unknown miscreants regarding the occurrence in between the night of 15/16.4.2025 and alleged to be committed occurrence and during that course, accused persons brutally assaulted the injured Lalita Devi and Soni Devi by confining Lalita Devi in a room and wrapped up Gamchha on their neck with intention to kill them. During the course of Enquiry, complainant and 4 enquiry witnesses including injured women, namely, Lalita Devi (E.W.1) and Soni Devi (E.W.3). Complainant described the details in the complaint petition alleged to be looted by the accused persons from the house of the complainant. E.W.1 has specifically in para 4 of her evidence that accused persons on the point of fire arms confined her in a room and looted away house hold articles and also damaged Freeze, TV etc. At para 6 of her

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evidence has stated that accused Bindeshwari wrapped Gammcha in her neck due to which she became unconscious. Her family members brought her to Bhawanipur for treatment. Accused Mithlesh wrapped Gamchha on the neck of her daughter-in-law and started pressing. Doctor referred her to Purnea and lastly, she treated in private clinic. E.W.3 Soni Devi at para 2 of her evidence has supported the case of the complainant and stated in her evidence that accused persons entered into her room due to which she awoke. Accused persons disconnect the electricity and accused Gulshan wrapped Gamchha in her neck with intention to kill her and also snatched her ornaments. Other enquiry witnesses have also supported the case of the complainant. From perusal of medical prescription of the injured Women, namely, Lalita Devi and Soni Devi, it appears that doctor has found bruise around neck and legature mark over the neck etc. of injured Lalita Devi and Soni Devi. The said injury report corroborated the allegation levelled against the accused persons.

The Hon'ble Supreme Court in the case of State of Maharashtra Versus Balram Bama Patil and others (1983), which highlighted that conviction for attempted murder depends on the intent to cause death or knowledge that it could cause death, rather than the severity of the injury inflicted, reversing a lower court's decision.

The Hon'ble Apex Court have held that if the assailant acts with the intention or knowledge that their act might cause death, and injuries occur, section 307 (109 of BNS) of the IPC applies even if the injuries are not extremely severe or on a vital part. In the present case, doctor has found Ligature mark on the neck and other injuries on vital part of the Injured women, which shows the intention of the accused persons that accused persons assaulted the injured persons with intention to kill them. Motive of the accused persons behind the occurrence is present with full prepration, they came to the house of complainant at night hour in this case but the learned court below at the time of passing the impugned order has not considered the evidences of the enquiry witnesses including injured women and injury reports of the injured women and passed the impugned order, which is not proper in the eyes of law. It is settled principle of law that the evidence is adequate for supporting the

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conviction can be determined only at the trial and not at the stage of enquiry. Only prima facie case is to be seen, the merits/demerits of the case are not be examined at this stage.”

8. In the light of above discussions, I find that the impugned order dated 6.11.2025 passed by Sri Rahul Prakash, J.M.1st Class,Purnea in C.A. Case No.1360 of 2025 is not proper and not sustainable in law and requires interference by this court as this court finds that the learned court below has committed irregularity and illegality in the impugned order and passed the impugned order without considering the evidences available on record. Accordingly, Instant Criminal Revision is allowed. The learned Magistrate is directed that to pass afresh order as per law on the basis of materials and evidences available on record.

(Dictated & Corrected by me)

Sd/-

(Kanhaiya Jee Choudhary)
Sessions Judge,Purnia.

7.03.2026.

Date of Order	23.2.2026
Date of Reserving Judgment/ order	07.03.2026
Uploading Date	26.3.2026
Uploaded by	Kumar Sanjay,Steno