

Present : Kanhaiya Jee Choudhary
Sessions Judge,Purnea.
Case No. : Cr.Rev. No.171 of 2025/CIS No.171 of 2025
(arising out of Jalalgarh P.S. Case No.14 of 2025)
Abdul Wahid Versus State and 6 others
Date of Order : 07.3.2026

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

Criminal Revision No.171 of 2025/CIS No.171 of 2025

Abdul Wahid,aged about 70 years S/o Late Fakir Muhammad of village Girda,Tola
Begampur, Ward No.09, P.S. Jalalgarh,,District Purnea. .. Petitioner.

Versus

1. State of Bihar
2. Shakur, aged about 30 years S/o Taslim
- 3.Sohib,aged about 40 years S/o Taslim
- 4.Kashira,aged about 25 years W/o Shakoor
- 5.Aasma,aged about 20 years W/o Sohib
- 6.Sahjadin,aged about 19 years S/o Sohib and
- 7.Begam,aged about 22 years S/o Sohib

All of village Girda,Ward No.9, P.S. Jalalgarh,District Purnea. .. Opposite Parties.

Revision against the order dated 29.5.2025
passed by Smt. Snigdha, J.M.1st Class,Purnea
in Jalalgarh P.S. Case No.14 of 2025.

For the petitioner :- Sri Prabhat Kumar Sinha,Advocate.
For the O. Party No. 1 :- Sri A.K.Tiwary,P.P.
For the O.Party No.2 :- Sri Mithlesh Kumar Jha,Advocate.

ORDER

1. This Criminal revision has been preferred by the petitioner/Informant, namely, Abdul Wahid against the order dated 29.5.2025 passed by Smt. Snigdha, J.M.1st Class,Purnea in Jalalgarh P.S. Case No.14 of 2025 for setting a side the impuged order and direct the learned court to pass afresh order as there is sufficient materials against accused persons/O.P. Nos. 2 to 7 to make out a prima facie for the offence under sections 126(2),115(2),117(2), 352,351(2),109,118(2) and 3(5) of the BNS of the IPC but the learned Magistrate,Purnea has only found prima-facie case for the offence under sections 126(2),115(2),117(2), 352,351(2) and 3(5) of the BNS against the accused persons (O.P. Nos. 2 to 7) to face trial and ordered the to issue summon against the accused to face trial and the learned court below has not found ingredient for the offence u/s 118(2) and 109 of the BNS to make out a prima-facie case against the accused persons and passed the impugned order in mechanical way inspite of the fact that there is specific overt-act against accused Sakur and Soyeb that accused Sakur gave Dabia blow on the right hand of the Informant due to which Informant sustained injury on his right hand and accused Soyeb gave Dabia blow on the head of

nephew of the Informant with intention to kill him due to which nephew of the Informant sustained bleeding injury on his head. Injuries of the injured persons show the intention of the accused persons that accused persons assaulted the Informant and his nephew with intention to kill them.

2. Heard the learned counsel Sri Prabhat Kumar Sinha, appearing on behalf of the petitioner, Sri A.K. Tiwary, the learned P.P. appearing on behalf of the State and Sri Mithlesh Kumar Jha, the learned counsel appearing on behalf of O.P. Nos.2 to 7 and perused the record as well as LCR and case diary.

3. As per fardbeyan of the Informant/petitioner, namely, Abdul Wahid, the prosecution case, in brief, is that on 12.1.2025 at about 10.30 A.M., Informant was cutting bamboos from his bamboo clumps situated over his land then all the FIR named accused persons named in the FIR in furtherance of their common intention of all came and forbade him not to cut the bamboos and started abusing and assaulting him and accused Sakur gave Dabia blow on his right hand due to which Informant sustained injury on his right hand. During that course, when nephew of the Informant Shahnawaz came then accused Soyeb gave Dabia blow on his head due to which his nephew sustained bleeding injury on his head. Accused persons extended threatening to the Informant with dire consequences. On the basis of fardbeyan of the Informant, FIR bearing Jalalgarh P.S. Case No.14 of 2025 u/s 115(2), 126(2), 118(1), 109, 351 (2), 352 and 3(5) of the BNS has been registered against the accused persons. I.O. after completing investigation, submitted chargesheet vide C.S. No. 96 of 2025 against the accused for the offence under sections 126(2), 115(2), 117(2), 352, 351(2), 3(5) of the BNS and accordingly, the learned court below vide order dated 29.5.2025 took cognizance of offences under the aforesaid offences against all the accused persons and against the said order, petitioner being the Informant of this case has preferred the instant criminal revision for setting aside the impugned order with a prayer to direct the learned court below to pass afresh order as there is sufficient material also for the offence under sections 118(2) and 109 of the BNS against the accused persons. The Revisionist/Informant being aggrieved from the said order has preferred the instant Criminal Revision.

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

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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 injuries report of the injured persons and evidences available in the case diary. He also submitted that from perusal of injury reports of the Informant/injured and his nephew shows the intention and motive of accused persons behind the occurrence. Doctor has found multiple injuries on the person of Informant as well as his nephew. Informant and his nephew being the injured and eye witnesses of the occurrence and other witnesses have supported the prosecution version. The learned counsel of the petitioner in support of her contention referred the case law of Dhrub Narayan Singh versus State of Bihar reported in 2001 CrLJ 2448 (Jharkhand) and submitted that the Hon'ble Apex Court have held that only prima facie case is to be seen, the merits/demerits of the case are 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, injuries report of injured persons as well as evidences available on record.

5. On the other hand, the learned P.P. assisted by the learned counsel of O.P. No.2 and 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. The learned counsel of O.P. Nos.2 to 7 has submitted that from perusal of the injury report, it is crystal clear that doctor has found simple injury on the person of the injured and the same is not vital part of the body. There is no repetition of blow to show intention or knowledge that accused persons assaulted the Informant and his nephew with intention to kill them. As a matter of fact, there is land dispute between both the sides and hot discussions made between both the side and Informant after taking advantage of the aforesaid matter has lodged this case against the accused persons with exaggerated allegation. So, prayed to dismiss the instant criminal Revision.

6. Firstly, I would like to refer sections 118 and 109 of the BNS, which are follows :-

BNS Section 118 of the Bharatiya Nyaya Sanhita (BNS), 2023, deals with voluntarily causing hurt or grievous hurt by dangerous weapons or means.

(1) Whoever, except in the case provided for by sub-section (1) of section 120, voluntarily causes hurt by means of any instrument for shooting, stabbing or

cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to twenty thousand rupees, or with both.

(2) Whoever, except in the case provided for by sub-section (2) of section 120, voluntarily causes grievous hurt by any means referred to in subsection (1), shall be punished with imprisonment for life, or with imprisonment of either description for a term which shall not be less than one year but which may extend to ten years, and shall also be liable to fine.

“ Section 109 BNS comparing of 307 IPC. Attempt to murder- Whoever does any act with such intention or knowledge and under such circumstances, that if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to (imprisonment for life), or to such punishment as in herein before mentioned;

Attempts by life-convicts- When any person offending under this section is under sentence of (imprisonment of life), he may, if hurt is caused, be punished with death; discuss some observation of Hon'ble Courts with guideline to Magistrate, while taking cognizance.

7. Having heard the rival submissions of both the parties and perused the record, LCR, impugned order and case diary. From perusal of the record, it appears that the instant case is based on fardbeyan of the Informant, FIR bearing Jalalgarh P.S. Case No.14 of 2025 under sections 115(2),126(2),118(1),109,351 (2),352 and 3(5) of the BNS has been registered against the accused persons. I.O.after completing investigation, submitted chargesheet vide C.S. No. 96 of 2025 against the accused for the offence under sections 126(2),115(2),117(2),352,351(2),3(5) of the BNS and accordingly, the learned court below

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vide order dated 29.5.2025 took cognizance of offence in aforesaid section of chargesheet against all the accused persons and against the said order, petitioner being the Informant of this case has preferred the instant criminal revision for setting aside the impugned order with a prayer to direct the learned court below to pass afresh order as there is sufficient materials also for the offence under sections 118(2) and 109 of the BNS against the accused persons. It also appears that there is land dispute between both the sides and free fight has been taken between them. Doctor has found simple injury on the person of Shanawaj and doctor has also found hand fracture of Informant but the same is not vital part. In addition to that there is no repetition of blow and there is lack of intention as well as motive that accused persons have assaulted the Informant and his nephew with intention to kill them. Witnesses at paras 9 and 10 have not support the prosecution version regarding of Informant and his nephew by the accused persons with intention to kill them. There is contradictory statement of the witnesses during the course of investigation. For attraction of section 109 of BNS (Section 307 of the IPC) – Motive and intention is important ingredient. The intention or knowledge to cause death is most crucial ingredient, not the actual injury caused. The offence is established if an act is done with necessary means *rea* (guilty mind) to cause death, even if no injury result. In the case, there was free fight between the party due to land dispute arose while conflicting bamboo stick.

8. In the light of above discussions, I find that the impugned order dated 29.5.2025 passed by Smt. Snigdha, J.M.Ist Class, Purnea in Jalalgarh P.S. Case No.14 of 2025 is just and proper and requires no interference by this court. Accordingly, Instant Criminal Revision is dismissed.

(Dictated & Corrected by me)

Sd/-

Sessions Judge, Purnia.
7.3.2026.

Date of Order	07.3.2026
Date of Reserving Judgment/ order	24.2.2026
Uploading Date	23.3.2026
Uploaded by	Kumar Sanjay, Steno

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