

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE, SAHARSA

Saharsa, Dated: - 15.06.2026

Present: - Dinesh Sharma, P.D. & S.J., Saharsa

Criminal Revision No. 25/2025

Fekan Mukhiya

Vs

The State of Bihar & 04 others

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE,
SAHARSA

Dated, Saharsa, the 15th June 2026

Present: - Dinesh Sharma, Principal Sessions Judge, Saharsa

Criminal Revision No. 25/2025

Fekan Mukhiya

Vs

The State of Bihar & 04 Others.

In the matter of: -

1. **Fekan Mukhiya** S/o Late Bilat Mukhia

Residents of Village Bhotia P.S. Balwahat District Saharsa.....**Petitioner**

Vs

1. State of Bihar

2. Alok Singh S/o Narayan Singh

3. Sushil Singh S/o Bharat Pd. Singh

4. Niranjana Singh S/o Radha Pd. Singh

5. Babu Singh S/o Arun Singh

All are residents of Village Bhotia P.S. Balwahat District Saharsa

.....**Opposite Parties No-2**

Appearance: -

For the Petitioner:- Sri Janardan Prasad YAadav

For the State :- Sri Krishna Murari Prasad, Ld. P.P.

For O.P. No. 2 :- Sri Aditya Thakur, Ld. Advocate

For the O.P. No. 3-5 :- Sri Vilash Chaudhary, Ld. Advocate

ORDER

1. The present revision petition has been filed challenging the correctness, legality and propriety of order dated 20.12.2024 passed by the Learned Chief Judicial Magistrate, Saharsa in Bakhtiyarpur P.S. Case No. 703 of 2024, whereby cognizance has been taken against the charge-sheeted accused persons and not against Opposite Party Nos. 2 to 5, namely Alok Singh, Sushil Singh, Niranjana Singh and Babu Singh.
2. Briefly stated, the petitioner instituted Bakhtiyarpur P.S. Case No. 703 of 2024 alleging commission of offences under Sections 147, 149, 341, 323, 354B, 504 and 506 of the IPC against several named accused persons and 15-20 unknown persons. Upon completion of investigation, the police submitted charge-sheet against Baban Singh @ Vinod Kumar Singh, Mukund Singh @ Mukund Murari, Bhushan Singh @ Nitin Kumar, Chaman Singh @ Shashi Shekhar Singh, Saket Singh @ Saket Kumar Singh, Sunil Singh @ Sunil

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE, SAHARSA

Saharsa, Dated: - 15.06.2026

Present: - Dinesh Sharma, P.D. & S.J., Saharsa

Criminal Revision No. 25/2025

Fekan Mukhiya

Vs

The State of Bihar & 04 others

Kumar Singh and Roshan Singh @ Roshan Kumar Singh. Opposite Party Nos. 2 to 5 were not sent up for trial. Upon consideration of the police report and materials available on record, the Learned C.J.M. took cognizance against the charge-sheeted accused persons only. Aggrieved by the non-taking of cognizance against Opposite Party Nos. 2 to 5, the petitioner has preferred the present revision petition.

3. Heard the submissions of the Ld. Counsel for the petitioners, Ld. PP for the State and the Ld. Counsel for the opposite parties. Learned counsel for the petitioner submitted that the impugned order has been passed mechanically without proper application of judicial mind. It was contended that the injured persons, namely Mukesh Mukhiya, Suren Mukhiya and Munchun Devi, were not examined by the Investigating Officer under Section 161 Cr.P.C. It was further submitted that the informant had filed a protest petition before the Trial Court, but the same was not duly considered before passing the impugned order. It was, therefore, argued that the impugned order is liable to be set aside.
4. Learned Public Prosecutor supported the impugned order and submitted that the same suffers from no illegality. It was further submitted that the petitioner is not remediless and may seek recourse under Section 319 Cr.P.C. (now Section 358 BNSS) if evidence emerges against the non-charge-sheeted persons during trial.
5. The Ld. Counsel for the opposite parties adopted the submissions of the Ld. PP for the State.
6. This Court has considered the rival submissions and perused the trial court records; the certified copy of the impugned order and the grounds raised in the revision petition.
7. The records reveal that, after investigation, the investigating agency found sufficient material only against seven accused persons and accordingly submitted charge-sheet against them. Opposite Party Nos. 2 to 5 were not sent up for trial due to absence of sufficient incriminating material against them.
8. It is well settled that at the stage of taking cognizance, the Magistrate is required to consider the materials collected during investigation and determine whether a prima facie case is made out for proceeding against the accused

82

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE, SAHARSA

Saharsa, Dated: - 15.06.2026

Present: - Dinesh Sharma, P.D. & S.J., Saharsa

Criminal Revision No. 25/2025

Fekan Mukhiya

Vs

The State of Bihar & 04 others

persons. The impugned order reflects that the Learned C.J.M. examined the case diary and specifically recorded that no material was available against Opposite Party Nos. 2 to 5. In such circumstances, the decision not to take cognizance against them cannot be said to be arbitrary, perverse or illegal.

9. The contention regarding non-consideration of the protest petition does not, by itself, warrant interference in revisional jurisdiction, particularly when the materials collected during investigation did not disclose sufficient grounds for proceeding against Opposite Party Nos. 2 to 5. The informant's right to pursue available remedies in accordance with law remains unaffected.
10. Upon consideration of the materials on record, this Court finds no patent illegality, perversity or jurisdictional error in the decision of the Learned C.J.M. in not taking cognizance against Opposite Party Nos. 2 to 5.
11. However, this Court finds that the observation in the impugned order keeping the proceeding "stayed" against Opposite Party Nos. 2 to 5 is legally unnecessary. Once cognizance has not been taken against such persons, the question of keeping proceedings stayed against them does not arise. Accordingly, the said observation is clarified to mean that no process shall issue against Opposite Party Nos. 2 to 5 at this stage on the basis of the materials presently available on record. This clarification shall not affect the power of the Trial Court to proceed against them in accordance with law, including under Section 319 Cr.P.C./Section 358 BNSS, if cogent evidence emerges during trial.
12. Subject to the aforesaid clarification, the impugned order dated 20.12.2024 is affirmed. The revision petition stands disposed of accordingly.
13. Let a copy of this order be transmitted to the court concerned along with the trial court records forthwith.
14. Announced in open Court today on this 15th day of June 2026.
15. File be consigned to Record Room as per rules.

Dictated & corrected by:


(DINESH SHARMA)

Principal Sessions Judge, Saharsa

15.06.2026

Order passed by:


(DINESH SHARMA)

Principal Sessions Judge, Saharsa

15.06.2026