

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE, SAHARSA

Saharsa, Dated: - 13.07.2026

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

Criminal Revision No. 129/2025

Neelam Thakur

Vs.

The State of Bihar and another

IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS JUDGE,
SAHARSA

Dated, Saharsa, the 13th July 2026

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Vs.

The State of Bihar and another

In the matter of: -

Neelam Thakur aged about 38 Years S/o Late Chandranand Thakur, resident of Village and P.O. Panchagachhiya, P.S. Bihra, District Saharsa.....**Petitioner**

Vs

1. **The State of Bihar,**
2. **Smt. Rekha Devi** aged about 35 Years W/o Neelam Thakur D/o Sri Amod Khan Resident of Village-Bangaon, Pachhwari Tola, P.S. Bangaon, District-Saharsa.....

Opposite Parties

Appearance:-

For the Petitioner	:- Sri Sunil Kumar Mishra, Ld. Advocate
For the State	:- Sri Krishna Murari Prasad, Ld. P.P.
For the O.P. No. 2	:- Sri Amarnath Jha, Ld. Advocate.

ORDER

1. The instant revision petition has been filed by the petitioner/revisionist challenging the correctness, legality and propriety of the order dated 30.07.2025 passed by the Ld. SDJM, Saharsa, in Manila P.S. Case No. 30 of 2018, whereby the Ld. Trial Court allowed an application filed by the O.P. No.-2 filed under Section 311 of the Criminal Procedure Code, 1973 (herein after "Cr.PC" for short) for examination of certain witnesses.
2. The O.P. No. 2 had lodged Manila P.S. Case No. 30 of 2018 against the petitioner and others for the alleged commission of offences under Sections 498A, 323, 379, 494/34 Indian Penal Code, 1860 (herein after "IPC" for short) and Sections 3, 4 of the Dowry Prohibition Act, 1961 (herein after referred as DP Act). During the pendency of the trial, the O.P. No. 2, being the informant of the case, filed an application under Section 311 Cr.P.C. seeking permission to examine certain witnesses. The said application was allowed by the Ld. Trial Court vide the impugned order dated 30.07.2025. Feeling aggrieved thereby, the petitioner has approached this Court by way of the instant revision petition.

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3. Heard the submissions of the appearing parties. It is submitted by the Ld. Counsel for the petitioner that the impugned order is against the settled principles of law and amounts to denial of fair trial to the petitioner. It is further argued that the Ld. Trial Court has not kept in mind that the power under Section 311 Cr.P.C. should be exercised with great caution and circumspection, and that the impugned order does not assign any reasons as to how the evidence of the witnesses summoned was essential for the just decision of the case. It is submitted that the power under Section 311 Cr.P.C. cannot be invoked to fill up lacunae in the prosecution case. It is also argued that the Ld. Trial Court has failed to keep in mind the mandate of Section 207 Cr.P.C., inasmuch as the witnesses summoned by the impugned order were never examined by the police during investigation, and that summoning such witnesses at this stage violates the mandate of Section 207 Cr.P.C. and offends the fair trial guaranteed to the accused. On these submissions, it is prayed that the impugned order be set aside.
4. Per contra, the Ld. Counsel for the O.P. No. 2 and the Ld. PP for the State have supported the impugned order.
5. Rival submissions considered. Record perused.
6. Before adverting to the rival submissions on merits, this Court considers it necessary to first examine whether the instant revision is maintainable at all, i.e., whether the impugned order dated 30.07.2025 is an interlocutory order, revision against which is barred under Section 397(2) Cr.P.C./Section 438(2) of the BNSS.
7. Section 397(2) Cr.P.C. (corresponding to Section 438(2) BNSS) expressly bars the exercise of revisional jurisdiction “in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.” It is well settled that orders passed during the course of a trial fall broadly into three categories: (i) final orders, which conclusively determine the rights of the parties; (ii) purely interlocutory orders, which are procedural steps in aid of the final decision and do not affect the substantive rights of the parties, revision against

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which is barred; and (iii) intermediate or quasi-final orders, which, though passed during the pendency of the proceeding, decide some right or issue having a material bearing on the final outcome, revision against which is not barred merely because the trial has not concluded.

8. An order allowing or disallowing an application under Section 311 Cr.P.C. for summoning, recalling or re-examining a witness is essentially an order of trial management. It does not decide any right of the parties finally, nor does it terminate the proceeding or determine any question touching the guilt or innocence of the accused. The trial continues after such an order, and it remains open to the petitioner: (a) to fully cross-examine the witnesses so summoned; (b) to demonstrate before the Trial Court that the evidence of such witnesses deserves no weight or credence.
9. The submissions urged by the Ld. Counsel for the petitioner regarding non-examination of the witnesses by the police, the alleged violation of Section 207 Cr.P.C., and the absence of reasons in the impugned order, go to the propriety and correctness of the exercise of discretion under Section 311 Cr.P.C. They do not alter the essential character of the impugned order as one of trial management, and are matters that can be, and ought to be, agitated before the Ld. Trial Court itself, including by way of cross-examination of the summoned witnesses touching their credibility and the circumstances of their belated summoning.
10. The Hon'ble Supreme Court in **Sethuraman v. Rajamanickam, (2009) 5 SCC 153**, has held that an order rejecting an application under Section 311 Cr.P.C. is interlocutory in nature and a revision against such an order is barred under Section 397(2) Cr.P.C.
11. The Hon'ble Delhi High Court in the case reported as **Situ Ramnath Shastri v. I.F.C.I. Factors Ltd., 2022 SCC OnLine Del 2660**, has held in the following terms: "3. Based on the submissions made by the parties before Ld. ASJ, the consideration of the revision petitions' merits and the conclusions that followed are mentioned hereunder:...10. At the very outset, I must hold

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that the present revision petition is against an order of the ld. trial court which was passed u/s 311 Cr.P.C and as has been held by Hon'ble Supreme Court in Sethuraman's case (supra), such an order is an interlocutory order. That being the case, no revision petition against such an order lies. On this ground alone, the revision petition must fail.”

12. For the reasons stated above, this Court holds that the order dated 30.07.2025 passed by the Ld. SDJM, Saharsa, is an interlocutory order within the meaning of Section 397(2) Cr.P.C./Section 438(2) of the BNSS, and the instant revision, being directed against a purely interlocutory order, is not maintainable.
13. Accordingly, the instant Criminal Revision Petition stands **dismissed as not maintainable**, without adjudication on the merits of the rival contentions urged by the parties. It is, however, made clear that the petitioner shall be at liberty to raise all the objections urged herein before the Ld. Trial Court in the course of the trial. This Court has expressed no opinion on the correctness or propriety of the impugned order on merits; the revision having been disposed of solely on the ground of maintainability.
14. Let a copy of this order along with the TCR be sent to the Ld. Trial Court for information and needful.
15. Announced in open Court today on this 13th July 2026.
16. File be consigned to Record Room, as per rules.

Dictated & corrected by:

Sd/-

(DINESH SHARMA)

Principal Sessions Judge, Saharsa
13.07.2026

Order passed by:

Sd/-

(DINESH SHARMA)

Principal Sessions Judge, Saharsa
13.07.2026

Date of Judgment/Order	13.07.2026
Date of Reserving Judgment/Order	13.07.2026
Uploading Date	14.07.2026
Uploaded By	Sachin Kumar