

In the Court of Principal District & Sessions Judge, Samastipur

CRIMINAL REVISION NO. 191 OF 2026

(Arising out of order dated 02.01.2026 passed by learned S.D.M. Samastipur
in M.R. No. 02 of 2026 U/s 126 B.N.S.S)

1. Arun Kumar Gupta, S/o- Late Shyam Nandan Prasad
2. Sandeep Kumar Gupta @ Sonu, S/o- Arun Kumar Gupta

R/o Village – Rampur Dudhpura, P.S – Muffasil, District – Samastipur

.....Petitioners

Vrs.

1. The State of Bihar ...O.P 1st Party
2. Dr. Anmol Kumar Gupta, S/o- Bhola Sharan Gupta
R/o Village – Rampur Dudhpura, P.S – Muffasil, District – Samastipur
...O.P 2nd Party

Presiding Officer: Sri Samir Kumar, Sessions Judge, Samastipur.

Samastipur, dated 04th day of June, 2026.

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ORDER

1. This criminal revision has been filed on behalf of above named petitioner and is directed against the order dated 02.01.2026 passed by the Ld. Court below i.e Court of S.D.M. Samastipur in M.R. No. 02 of 2026, whereby and whereunder the learned S.D.M. Samastipur initiated a proceeding under Section 126 B.N.S.S and directed the Present/Petitioner to file show cause in the case.

2. Heard Sri Ashok Kumar Singh, Ld. Counsel appearing for the petitioner, Sri Shiv Kumar Prasad, learned P.P for the State and Smt Kiran Singh, Ld. Counsel for O.P No.2.

3. At the time of hearing, it was submitted on behalf of the petitioners that the learned court below erred by not mentioning the description of overt act alleged to have been committed by the notice of the show cause/petitioners and in the absence of the same the impugned order is illegal as the

petitioners are not in a position to know the alleged wrong committed by them. Further submitted that it was not enough to mention that there is tension between the parties owing personal dispute. Further submitted that there is non-compliance of mandatory provision of law under Section 130 of the B.N.S.S.

4. The Ld. P.P as well as Ld. Counsel for O.P No.2 vehemently opposed the submission of ld. Counsel for the petitioners and submitted that there is full compliance of provision of Section 130 of B.N.S.S. Further submitted that the proceeding before the Court below is preventive in nature and hence, order passed cannot be interfered lightly.

5. Section 126 of the B.N.S.S corresponding to old Section 107 Cr.P.C clearly speaks that whenever a magistrate is informed that any person is likely to commit a breach of peace he may require such person to show cause as to why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for a period not exceeding one year. This has to be done in the manner provided in the subsequent sections and the manner is provided in Section 130 of the B.N.S.S. That section requires a Magistrate to make an order in writing setting forth the substance of information received”.

6. Hon’ble Patna High Court, Ranchi Bench, in case of Nirmal Kumar Ghosh V. State of Bihar & Another BBCJ 1999 V-103, relying upon its earlier judgment in the case of Kuldip Singh Chawla V. State of Bihar & Another(1988) BLT 325 held that”it is the fundamental requirement of law that there must be some material to show that the petitioner had committed any overt act or any wrong so that reasonable apprehension of breach of peace can be prevented at the instance of any of the petitioner and for that purpose specific overt act must be assigned against each individual person who is proceeded against under Section 107 Cr.P.C and if it is not done drawing up a proceeding against that person for want of specific overt act or

wrong done, cannot be sustained in law.

7. In that case, the Hon'ble Court further held that the police report nowhere reveals that the petitioner has taken the law in his own hand and committed any overt act which may lead to breach of peace. In this circumstance, in any view, the Magistrate has failed to exercise his jurisdiction vested in him under law by initiating the proceeding and issuing notice to the parties.

8. Similarly, Hon'ble Patna High Court in the case of Bal Kishan Sao V. Munnu Khan B1JR 1969, page 479, in a Revision against order of Magistrate drawing proceeding under Section 107 Cr.P.C has been pleased to observe that "It is not stated in this order as to what was the substance of the report of the police and in what matter the petitioners were likely to commit breach of the peace. It is also not stated as to with regard to which graveyard there was apprehension of breach of the peace. All these things have been left vague. The notices to show cause served on the petitioners were in these very terms. Therefore, it was not clear from the contents of the notices as well as to what allegations the petitioners were to answer."

9. Hon'ble Patna High Court in the case of Md. Saquib Ahsan Vs. State Of Bihar reported in 1997(1) PLJR, where an identical order was passed by Sub-Divisional Magistrate, West Muzaffarpur held that the Magistrate exercising power under Section 111 of Code of Criminal Procedure must record a statement about the existence of breach of peace after recording the substance of accusation and the substance of information. Further, in that case, the Hon'ble Court held that in the impugned order of that case, the Learned Magistrate has not stated the substance of the report of the police and in what manner, the petitioner was likely to commit breach of peace. It is also not stated as to with regard to which land there was apprehension of breach of peace and observed that in that case, the Learned Magistrate has failed to apply its mind and passed the order in a mechanical way which is

vitiated in law.

10. On perusal of impugned order it appears that proceeding u/s 126 of B.N.S.S. has been started in the application of Dr. Anmol Kumar (First Party of M.R No. 02/2026) but the date of application has not been mentioned. Further nowhere it is mentioned as to whether the application has been filed physically or by online mode. L.C.R has been called for and on perusal it appears that application sent through online mode is available on record but this application is of dated 20.11.2024 and the proceeding has been started on 02.01.2026 i.e after lapse of more than one year. It also appears that in the impugned order it is nowhere mentioned as to what was the immediate cause for starting the proceeding also. It is nowhere mentioned that on which date and time the petitioners have given threatening or used filthy language against Dr. Anmol Kumar (First Party of M.R No. 02/2026).

11. Keeping in view the settled principle of law in the case of Bal Kishan Sao V. Munnu Khan(Supra),Md. Saquib Ahsan Vs. State of Bihar(Supra) and Nirmal Kumar Ghosh V. State of Bihar & Another(Supra), I have no hesitation in holding that the impugned order is not in conformity with law and do not contain the essential ingredients as required by law. Accordingly, the impugned order is set aside.

12. In the result, this criminal revision is allowed.

(Dictated)

Sessions Judge

Date of Judgment / Order	04.06.2026
Date of Reserving Judgment / Order	04.06.2026
Uploading Date	06.06.2026
Uploaded by	Ashish Kumar