

In the Court of Principal District & Sessions Judge, Samastipur

Cr.Revision No.233 of 2026

1. Balu Ram Modi son of Late Shankar Modi
 2. Rajendra Modi son of Balu Ram Modi
- Both R/o Cash Centre Neem Chowk, P.S.Tajpur, District Samastipur.
3. Shravan Kumar Modi
 4. Prashant Modi
- Both sons of Late Purushottam Modi, R/o Pariwar Vastralaya Basant Market, P.S. Samastipur Town, District Samastipur.
5. Vijay Kumar Modi son of Birbal Modi, R/o Aayushi Saree Centre, Ambedakarnagar, P.S. Samastipur(Town), District Samastipur.

-----petitioners/revisionist

Vrs.

1. The State of Bihar
2. Hemant Kumar @ Pappu, son of Late Pawan Kumar Singh, R/o Village Akbarpur, P.S.Kalyanpur, District Samastipur.

-----O.P.Ist.Party

Presiding Officer: Sri Samir Kumar, Sessions Judge, Samastipur

O r d e r

08. 22.06.26
1. This criminal revision has been filed on behalf of petitioners named above and is directed against the order dated 13.03.2026 passed by Ld. C.J.M.Samastipur in Complaint Case No.991 of 2025, whereby the court below has taken cognizance against all the accused persons named above under Section 420 of the I.P.C and directed the complainant(O.P.No.2 here) to file requisites for appearance of accused.
 2. The brief facts of the complaint case is that, for purchase of land bearing Thana No.198, Khata No.17,14,43, Khesra

No. 26, 27, 30, 25 Area 11 Katha 3 dhur the complainant got an agreement executed between his brother Balbant Kumar and the accused persons on 14.06.2019. The rate of land was decided as Rs. 30 lacs each Katha and time was fixed for twelve month for which the brother of complainant had paid Rs. 2,01,000/- to them. Further case is that the owner of the said land made another agreement after increasing the rate of land at Rs. 35 lac each Katha and this agreement was made on 25.01.2022. It was decided to give advance money of Rs. 16 lac and thereafter brother of complainant had given Rs. 06 lacs through cheque and cash Rs. 10 lacs. It is also alleged that the said land was in possession of another person and after agreement the complainant had got it through court and as in the agreement time was not framed that is why the mind of accused persons have changed and they refused to sell. It is also alleged that the accused persons even after taking advance money Rs. 18 lacs were reluctant to obey the terms of agreement. It is further alleged that the vendor in their agreement representing land to be sold as 11 Katha 3 dhur, took Rs. 18 lacs from the brother of complainant but on paper total five katha land was mentioned. Hence, accused persons were under obligation to return Rs. 73,50,000/- but they refused to return it. Further as the complainant had took the aforesaid money on interest from market and handed over to accused and due to non-refund of money by

the accused persons the complainant became bankrupt. Also that the last panchayati was convened in Thakurbari Marwari Bazar, Samastipur where the accused persons refused to return money to complainant and they became adamant for assault to complainant.

3. The complainant had filed this complaint in the court of learned Chief Judicial Magistrate, Samastipur, who after taking evidence of witnesses took cognizance against the accused persons namely Balu Ram Modi, Shrawan Kumar Modi, Vijay Kumar Modi, Prashant Modi and Rajendra Modi under Section 420 of the I.P.C.

4. The petitioners have preferred this revision being aggrieved and dissatisfied with the order dated 13.03.2026 of the court below on the ground :

I. That the order passed by the court below is bad in law and fit to be set aside.

II. That the court below has passed the order in haste without applying his judicial mind.

III. That the court below has failed to appreciate the legal aspect of the matter and without getting report of service of notice against the accused and without hearing the accused under Section 223 B.N.S took the cognizance.

IV. That the case is based on violation of terms and condition of an unregistered agreement and the law is settled that if there is

any violation of terms and conditions of unregistered agreement the same comes civil breach of trust and not criminal breach of trust. The remedy is available in suit for recovery of money.

V. That the complaint lacks the basic ingredients required under Sections 420 of the I.P.C.

VI. That the Ld. Lower Court has passed the order of cognizance mechanically, without recording any satisfaction or applying judicial mind and further the order fails to show consideration of facts and law, especially regarding the civil nature of the dispute and it is purely abuse of criminal process.

5. Heard Sri Kumar Gaurav learned lawyer for the petitioners, Sri Vijyendra Kumar Thakur-Ld. counsel appearing on behalf of the complainant and also heard the Ld. Incharge P.P for the State.

6. The Ld. Lawyer of the petitioners advanced the contention of the revision petition and stated that Ld. Court below failed to appreciate that Criminal Forum can not be misused to settle civil dispute and here in the present case the court below without hearing the accused persons under Section 223 of the B.N.S.S passed the order in haste without getting service report which has already been issued by the court prior to passing order. Hence, prayed to set aside the impugned order.

7. The learned P.P as well as Ld. Lawyer of the complainant have submitted that there is no illegality or irregularity in the impugned order and impugned order requires no interference. Further submitted that at the time of taking cognizance the court below has only to see as to whether prima facie case is made out or not. So far question of non-receipt of the notice to the petitioners, prior to the order of cognizance in this case is concerned, admittedly a provision has been carved out giving an opportunity to the accused persons to be heard prior to summoning them in a criminal case based on a complaint petition with a view to filter out the absurdities by way of allegations levelled and thereby to comply with the natural justice clause, but in the instant complaint case the facts are based upon a deed of agreement, wherein an agreement has been done fraudulently much beyond their actual land thereby the complainant has been dealt with fraudulently and in this way the very basis of the complaint lies under the documentary evidence rather than the oral one and as such as per the provision as contained Under Section 95 of Bhartiya Sakshya Adhiniyam 2023, the non-receipt of the notice to the petitioners prior to the order of cognizance dated 13.03.2026 does not vitiate the order, which is neither illegal nor improper.

8. On perusal of impugned order, it appears that the main contention of the Ld. Counsel of the petitioners is that the court

below has issued notice to accused on 11.02.2026 which has been received by the petitioners on 24.03.2026 and report of service of notice has been deposited by notice server in court on 06.04.2026 thus, the notice under Section 223 B.N.S.S was received by these petitioners after 13.03.2026 and without giving opportunity to hearing under Section 223 B.N.S.S ,the court below has passed the order which is gross error of law. I find sufficient force in the contention of petitioners and in my considered view the impugned order is not proper and legally not sustainable.

9. In view of above discussion, I am of the view that the Ld. Lower Court has passed the order of cognizance in mechanical way without recording any satisfaction or applying judicial mind. The order fails to show consideration of facts and law.

10. In result, the impugned order dated 13.03.2026 passed by the Ld. Lower Court is hereby set aside and this criminal revision stands **allowed**. (Dictated)

(Samir Kumar)
Sessions Judge
Samastipur.
22.06.2026

Date of Judgment / Order	22.06.2026
Date of Reserving Judgment / Order	22.06.2026
Uploading Date	24.06.2026
Uploaded by	Ashish Kumar