

In The Court of Sessions Judge, Vaishali**Vaishali, Bihar 844101.****Distt. - Vaishali, BIHAR.****Criminal Revision No. 74 of 2026**

Arising out of Hajipur Sadar P.S. Case No. 824 of 2022

1. Manoj Kumar @ Manoj Kumar Manoranjan S/o Late Nanda Prasad Singh,
2. Vinod Kumar S/o Late Nanda Prasad Singh,
Botjh Residents of village- Bahuara, PS-Rajapakar (Baranti O.P.), District –Vaishali,
Bihar.

.....The Revisionists

vs

1. The State of Bihar
2. Chandan Kumar S/o Jawahar Rai, resident of village – Chakbarna, PS –
Rajapakar (Baranti O.P.), District – Vaishali, Bihar.

.....The Opposite Parties

The criminal revision has been preferred by the revisionists/accused persons against the order dated 31.10.2025 passed by Learned Chief Judicial Magistrate, Vaishali at Hajipur, in Hajipur Sadar P.S. Case No. 824 of 2022, whereby and whereunder the learned C.J.M. after finding the prima facie case for the offences u/ss. 326, 341, 323, 504, 506/34 of I.P.C., summoned the revisionists Manoj Kumar Manoranjan and Vinod Kumar for trial.

*Counsel for the Revisionists: Learned Advocate Sri Balram Kumar Singh
Counsel for the Opposite Party No.1: Learned P.P. Sri Shyam Babu Rai*

Dated- 27th June 2026**Present- Harshit Singh.****ORDER**

1. The criminal revision has been preferred by the revisionists/accused persons against the order dated 31.10.2025 passed by Learned Chief Judicial Magistrate, Vaishali at Hajipur, in Hajipur Sadar P.S. Case No. 824 of 2022 whereby and whereunder the learned C.J.M. after finding the prima facie case for the offences u/ss. 326, 341, 323, 504, 506/34 of I.P.C., summoned the revisionists Manoj Kumar Manoranjan and Vinod Kumar for trial.

2. **Prosecution Story:** Briefly stated, the prosecution story as per the F.I.R. is that on 12.10.2022 at about 5:15 PM, the informant Chandan Kumar (O.P. No. 2), along with his friend Pankaj Kumar, was returning home from Hajipur. When they reached near the BSNL office at Ramashish Chowk, a black four-wheeler intercepted their motorcycle. The accused persons, namely Nanda Prasad Singh, Manoj Kumar Manoranjan, Vinod Kumar, and three unknown individuals, alighted from the car and started abusing the informant. They pressured him to withdraw Mahila Thana Case No. 16/2022, threatening to kill him and his entire family if he refused. Upon his refusal, on the instigation of Nanda Prasad Singh, revisionist no. 1 Manoj Kumar took out an iron rod from the vehicle and assaulted the informant on his

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head with the intent to kill, causing a bleeding head injury. Revisionist no. 2 Vinod Kumar and the others assaulted him with fists and kicks. His friend Pankaj Kumar was also assaulted when he raised an alarm. After bystanders gathered, the accused persons fled the scene in their car, and the injured informant was taken to Sadar Hospital Hajipur for treatment.

3. After investigation, the police submitted a charge-sheet only against accused revisionists Manoj Kumar Manoranjan and Vinod Kumar for the offences u/ss. 341, 323, 504 & 506/34 I.P.C. and did not submit the charge-sheet against accused Nanda Prasad Singh as he had died. Accordingly, the learned C.J.M. Vaishali by the impugned order has taken cognizance against the accused persons/revisionists Manoj Kumar Manoranjan and Vinod Kumar u/ss. 326, 341, 323, 504 & 506/34 I.P.C.

4. In this revision petition, the revisionist has taken the following grounds for impugning the order dated 31.10.2025:

- a. That the impugned order of the trial court is bad in law as well as on facts.
- b. The learned trial court ought to have perused the case diary and the evidences prior to taking cognizance and a considered order would have been passed.
- c. The learned trial court has mechanically passed the impugned order on a flimsy consideration. The learned trial court did not consider the evidences available on record.
- d. All the injuries found on the person of injured are simple in nature and no case u/s 326 I.P.C. is made out but the learned C.J.M. Vaishali without going through the injury report and other materials available in the case diary has passed the impugned order and taken cognizance for the offences u/ss. 326, 341, 323, 504 & 506/34 I.P.C. against the revisionists, which is illegal. Hence it has been prayed to allow the present criminal revision and set aside the order dated 31.10.2025 passed by Ld. C.J.M. Vaishali at Hajipur.

5. The Learned P.P. for the State (O.P. no.1) has submitted that there is no illegality in the impugned order.

6. Heard the learned P.P. for the State and also perused the materials available on record as well as the impugned order.

7. Upon perusal of the record, specifically the injury report dated 12.10.2022 prepared by Dr. Manish Kumar Roshan of Sadar Hospital, Hajipur, it is observed that the informant Chandan Kumar sustained a lacerated wound on his right forehead and complained of pain in his right shoulder and right arm. Crucially, the final opinion of the medical officer categorically states that the injuries are "simple" in nature and caused by a "hard and blunt substance".

8. Section 326 of the Indian Penal Code specifically deals with "Voluntarily causing grievous hurt by dangerous weapons or means." The basic ingredient to attract an offence under this section is that the hurt caused must fall under the definition of "grievous hurt" as outlined in

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Section 320 of the I.P.C. Since the medical evidence explicitly classifies the injuries as "simple", the essential ingredient for an offence under Section 326 I.P.C. appears to be prima facie absent. The Investigating Officer had rightly submitted Charge-sheet No. 1238/24 under Sections 341, 323, 504, 506/34 I.P.C., excluding Section 326 I.P.C. However, the learned C.J.M. added Section 326 I.P.C. at the time of taking cognizance on 31.10.2025.

9. Maintainability of Revision on the Point of Sections: A crucial question arises as to whether a revision petition is maintainable merely on the ground that cognizance has been taken under an incorrect section of the penal code. In law, an order taking cognizance and issuing process is not a purely interlocutory order barred under Section 397(2) of the Cr.P.C., as it fundamentally decides whether the accused must face trial. Therefore, a revision against a cognizance order is legally maintainable if there is a patent absurdity or jurisdictional error. However, when the grievance is specifically restricted to the *addition or omission of a particular section* (such as Section 326 I.P.C. in the present case) while the core offences (assault and intimidation) are prima facie made out, the Revisional Court must exercise circumspection. It is a well-settled legal proposition that the stage of taking cognizance requires only a prima facie satisfaction of the Magistrate to issue process. A more detailed application of judicial mind to the evidence—such as evaluating the exact severity of the injury to frame or drop specific sections—is appropriately reserved for the stage of framing of charge.

10. Taking cognizance does not prejudice the accused, as they possess an inherent right to raise all factual and legal contentions before the trial court at the stage of framing of charge. At that stage, it is open to the accused to plead that there is no sufficient ground for proceeding against them for specific offences.

11. It has been further observed by the Hon'ble Apex Court :- **This extract is taken from Nallapareddy Sridhar Reddy v. State of A.P., (2020) 12 SCC 467 : (2020) 4 SCC (Cri) 162 : 2020 SCC OnLine SC 60 at page 479**

25. However, for the purpose of framing of charge the court needs to prima facie determine that there exists sufficient material for the commencement of trial.

It has been further observed by the Hon'ble Apex court :- **This extract is taken from Sanjay Kumar Rai v. State of U.P., (2022) 15 SCC 720: 2021 SCC OnLine SC 367 at page 726**

15. Further, it is well settled that the trial court while considering the discharge application is not to act as a mere post office. The court has to sift through the evidence in order to find out whether there are sufficient grounds to try the suspect. The court has to consider the broad probabilities, total effect of evidence and documents produced and the basic infirmities appearing in the case and so on. [*Union of India v. Prafulla Kumar Samal* [*Union of India v. Prafulla Kumar Samal*, (1979) 3 SCC 4 : 1979 SCC (Cri) 609]]. Likewise, the Court has sufficient discretion to order further investigation in appropriate cases, if need be.

Hence, The Apex Court reiterated that the trial court is not a mere post office at the stage of framing charge. The court is enjoined with the duty to apply its judicial mind to the

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materials produced by the prosecution and must afford the accused a fair opportunity of being heard before deciding whether a charge under a particular section is legally made out.

12. ORDER:

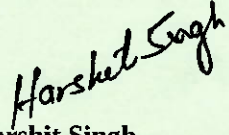
In light of the above observations regarding maintainability and the settled principles of law, I am not inclined to interfere with or quash the impugned cognizance order dated 31.10.2025 at this preliminary stage. The present criminal revision petition is accordingly **disposed of** with the following directions:

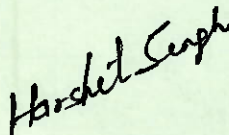
- a. The revisionists are granted the liberty to raise all their pleas, specifically regarding the simple nature of the injuries as per the medical report and the consequent non-applicability of Section 326 of the I.P.C. before the learned Trial Court at the stage of framing of charge.
- b. The learned Trial Court is requested to consider such plea(s) and pass a reasoned and speaking order on the point of charge after affording a due opportunity of hearing to both the parties.
- c. It is strictly clarified that the Trial Court shall decide the point of charge on its own merits and based solely on the materials available in the case diary, **without being prejudiced** by the impugned order of taking cognizance or by any observations made by this Revisional Court in the present order.

Let a copy of this order be sent to the court below along with the LCR.

Pronounced in the Open Court

The Order is typed and corrected by:


Harshit Singh
Sessions Judge, Vaishali
Dated: 27.06.2026


Harshit Singh
Sessions Judge, Vaishali
Dated: 27.06.2026