

IN THE COURT OF JUDICIAL MAGISTRATE 2nd CLASS, KHAGARIA

COMPLAINT CASE No. 429/2015

S. No.	Date of order of proceeding	Order with signature of the Court	Office action taken
1.	2.	3.	4.
	30/07/2026	1. Case is called out. Neither the Complainant nor the accused persons are in attendance. The record is running for framing of charge in Complainant Case No. 429/2015. 2. The complaint has been filed by Nityanand Yadav. The summoning order was passed on 07.09.2016 against the accused person 1. Indal Yadav 2. Rudal Yadav 3. Devan Yadav 4. Sato Yadav 5. Sarveen Yadav 6. Shalo Yadav viz under section 147, 148, 149, 323, 379, 392, 394, 364[a], 504, 506/34 of IPC and u/s 27 Arms act. The court through office issued summons after the filing of the requisites. 3. The appearance of the accused person was secured on 08.12.2022, and enlarged on bail. Thereafter the case was posted for before charge evidence. 4. From 08.12.2022 onwards multiple chances were given to the complainant to bring before charge evidence to the court. None of the opportunities were availed by the complainant. Moreover, the complainant remained absent for on each date. 5. On 09/10/2025 the complainant's opportunity to adduce before charge evidence was closed and the record was put for hearing on point of framing of charges. 6. On perusal it is found that complainant has filed only his complaint petition and three inquiry witnesses, in order to get the process be issued. After that on appearance of the accused persons the complainant remained absent. 7. From the conduct of the complainant, it appears that the complainant himself is not diligent or is not interested in the prosecution of this case. It is well settled principle that in	

complaint case the onus lies upon the complainant to be vigilant about the prosecution of their case. In the present case in hand, the prosecution is absent continuously for about eight years without any reasonable explanation which creates strong presumption that the complainant is no longer interested in the prosecution of his case. Considering the continued absence of complainant, the pendency of this record seems unjustifiable and against the interest of justice

8. There is a legal obligation on complainant to adduce before charge evidence in warrant triable complaint cases. In present case there is no evidence produced in support of the complainant's story, the framing of charge would result in prejudice to the accused persons as it would tantamount to a denial of their salutary right to cross examination.
9. Complainant has not produced any evidence as referred in section 244 of Code of Criminal Procedure, 1973. Considering all the materials available on record and circumstance of the case, the court is of the opinion that no case against the accused has been made out which, if unrebutted, would warrant his conviction.
10. Hence, this is an appropriate case for discharge under Section 245(2) of the code of Criminal Procedure, 1973 on account of no sufficient material and no before charge evidence being adduced by the complainant and therefore, the accused persons *viz* **1.1.Indal Yadav 2. Rudal Yadav 3.Devan Yadav 4.Sato Yadav 5.Sarveen Yadav 6.Shalo Yadav** is hereby discharged under the provisions of section 245(2) of CrPC. The bailors of the accused persons are also discharged from the liabilities of their sureties.

The office clerk is directed to consign the record in record room as per rules and procedure.

(Typed and corrected by me)

Shipra Chauhan
30/08/16.
Shipra Chauhan
JMSC, Khagaria