

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62013 of 2025

Arising Out of PS. Case No.-66 Year-2002 Thana- BAGHA District- West Champaran

Jhotil Paswan S/o- Late Sahdeo Paswan Village- Bakuli Ps- Laukariya Dist-
West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Dayanand Dwivedi S/o- Sachidanand Dwivedi Village- Malkauli Ps-
Bagaha-2, Dist- West Champaran

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Shailesh Kumar, Advocate Mr.Shahbaj Alam, Advocate Mr.Ali M. Ahmad, Advocate
For the State	:	Mr.Ajit Kumar, APP
For the Informant	:	Mr.Natraj Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 07-10-2025

Heard learned counsels appearing on behalf of the
petitioners; learned counsel for the informant and the learned
APP for the State.

2. At the very outset, it is informed that a counter
affidavit has already been filed online. The office is directed to
place the same on record.

3. The present quashing application was heard on
25.09.2025; on which date issue was raised by the learned
Senior Advocate appearing on behalf of the petitioner, as to
whether the learned Magistrate, who has taken cognizance of
the offence, can direct for re-investigation or further



investigation ? Bagaha P.S.Case No.66 of 2002 was instituted against the petitioner, two other named accused persons and other unknown persons under Section 447, 341, 342, 323, 504 and 34 of the Indian Penal Code.

4. As per the allegations made in the FIR on 08.04.2002, between 1:00 and 2:00 PM, the informant, Shri Dayanand Dwivedi, was sitting in his drawing room when the accused, Shri Purnmasi Ram, along with co-accused Jhotil Paswan, Amarnath Mukherjee, and several unknown persons, arrived at his residence in a Gypsy vehicle. The informant's son, Dhananjay Kumar Dwivedi, noticed their arrival, and the informant opened the door to greet them. The accused Purnmasi Ram questioned the informant regarding a scam case filed before the Hon'ble High Court at Patna, to which the informant replied that the responsible parties were ministers of the concerned department. Thereupon, the accused Purnmasi Ram forcibly grabbed the informant's forearm, while the other accused pushed him from behind, compelled him to enter the Gypsy vehicle, and assaulted him en route as well as at the Bagaha assembly premises, causing serious injuries. It is alleged that the accused acted in furtherance of a common intention motivated by ongoing opposition against them



related to scam cases and land disputes. The incident was witnessed by numerous persons both at the informant's residence and at the assembly hall in Bagaha. Consequently, Bagaha P.S. Case No. 66 of 2002 was registered under Sections 447, 341, 342, 323, 504, and 34 of the Indian Penal Code against the accused persons, and for the same occurrence petitioner has also lodged FIR against the opposite party no. 2 bearing Bagaha P.S. Case No. 65 of 2002 registered under sections 341,323,307,504 of Indian Penal Code and under sections 25(1-b)(A),26,27 of the SC/ST Act.

5. Today, Mr. Shailesh Kumar, learned counsel appearing on behalf of the petitioner and Mr. Natraj Verma, learned counsel appearing on behalf of the informant inform that they are associated with the different political parties and due to political rivalries, each of them have lodged criminal case after criminal case against each other and now both of them seek to buy peace of mind. They are agreed to enter into a compromise outside court and settle their strained relationship.

6. It is jointly submitted by both the parties that around four months' time will be required to complete the entire process of settlement between the parties.



7. Heard the parties.

8. Considering the nature of allegation and the fact that the injury is simple in nature, this Court leads to conclude that the overt act attributed to the petitioners cannot bring them within the four corners of the Section 307 of the Indian Penal Code. In this regard, I find it apt to take note of the observation made by the Apex Court recently in case of ***Naushey Ali & Ors. Vs. State of Uttar Pradesh & Anr.*** reported in ***(2025) 4 SCC 78*** in para-11 to 20, which is reproduced hereinafter:

“11. Before we apply this judgment to the facts, it will be worthwhile to recall the observations of Sikri, J. in Narinder Singh (supra):-

"26. Having said so, we would hasten to add that though it is a serious offence as the accused person(s) attempted to take the life of another person/victim, at the same time the court cannot be oblivious to hard realities that many times whenever there is a quarrel between the parties leading to physical commotion and sustaining of injury by either or both the parties, there is a tendency to give it a slant of an offence under Section 307 IPC as well..."

(Emphasis supplied)

*12. Coming back to **Laxmi Narayan (supra)**, this Court has held that mere mention of Section 307 IPC in the FIR or the charge-sheet should not be the basis for adopting a hands-off approach. It has further held that it would be open for the court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or whether there is evidence to back it. It has been held that the courts may go by the nature of injuries sustained; as to*



whether the injuries are inflicted on the vital/ delicate parts of the body and the nature of weapon used. It has also been clarified that such an exercise would be permissible after investigation and filing of chargesheet/framing of charges or during the trial. [See 15.4 of Laxmi Narayan (supra)].

13. Coming to the facts of the case, admittedly, there is a settlement between the parties. The case filed by the appellants' party which was prior in point of time and that too on the same day of occurrence, has been settled.

14. It should be recalled that, at the outset, after investigation, the police actually closed the case in its final report of 07.09.1991. It was the trial Court, which by its order of 05.09.1992, refused to accept the same and summoned the appellants. The incident is of 11.08.1991, i.e. about 33½ years back. No doubt, there is a reference to the firing in the FIR but admittedly there was no injury. The allegation is that firing was done by Abdul Waris. He is since deceased. The facts, assuming to be true, also do not make out a case of common object for the appellants under Section 149 IPC insofar as the offence of Section 307 is concerned.

15. The role attributed to the seven members, including the five appellants is not specific. General allegation was that they abused in filthy language and assaulted Mahmood with lathi and iron bars. The specific individual role was only attributed to Adbul Waris, who is since deceased.

16. In any event, the police who investigated disbelieved the entire story. No recoveries have been made of any pellets. What engaged the attention of the High Court was only the fracture of the head of the distal phalanx of left finger of respondent No.2.

17. We have seen the injuries sustained by Mahmood (R-2) from the medical evidence collected. From the injury report, it is clear that while the first four injuries were contusions and abrasions, injury Nos. 5, 6 and 7 pertained to incised lacerated wound and swelling on the middle



finger of the left hand. We have also seen the x-ray report which shows that in the left hand there was a fracture of the head of distal phalanx of left ring finger. Assuming that this was the result of injury with lathis or iron bar, applying the test in Laxmi Narayan (supra), considering the injury and the nature of the weapon used, certainly no offence under Section 307 IPC is made out.

18. Section 307 of IPC reads as under:-

"307. Attempt to murder.-

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

Attempts by life convicts.- When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death."

19. Keeping in mind the surrounding circumstances, the nature of the weapon and the nature of the injury, on facts, we are inclined to conclude that the overt act attributed to the appellants does not bring the case within the four corners of the Section 307 of IPC, either on a stand-alone basis or as held above with the aid of Section 149 of IPC.

20. We are also inclined to conclude that considering the overall circumstances, the nature of the weapon and the nature of the injury (fracture of the head of distal phalanx of left ring finger), the offence alleged, on facts, does not fall in that category of cases where the court should deny relief in the event of a settlement. At the highest, the offence alleged could be one under Section 326 of IPC. It could not be said, on facts, considering all the circumstances that this is a crime which has such an harmful effect on the public and that it has the effect of seriously threatening the well-being of the society. We make it clear that we are saying so



on the facts of the present case. We are also firmly of the opinion that proceeding with the trial, when parties have amicably resolved the dispute in the present case, would be futile and the ends of justice require that the settlement be given effect to by quashing the proceedings. It would be a grave abuse of process to let this trial remain pending under the above circumstances, particularly when the dispute is settled and resolved.”

9. Considering the aforesaid submissions made on behalf of the parties and the nature of allegation as alleged against the petitioner in Bagaha P.S.Case No.66 of 2002, which has been lodged subsequent to Bagaha P.S.Case No.65 of 2002 filed by the petitioner against the informant, interim protection for the period of four months is granted to the petitioner, so that both the parties can resolve their dispute amicably.

10. I refer the matter back to the learned trial court to proceed in accordance with law taking into consideration the law laid down by the Apex Court in the case of **Naushey Ali (supra)** that if any joint petition is filed and both the parties agree to withdraw their respective cases filed against each other, then in that case, the learned trial court on the basis of the materials available on record may pass appropriate order and in the case of failure to arrive at a compromise, the learned district court may proceed with the trial in accordance with law.



11. Till then, the operation of order dated 02.08.2025 passed by the learned District and Additional Sessions Judge IV, Bagaha, West Champaran in Cr. Revision Case No.78 of 2021 shall remain stayed, subject to the result of settlement between the parties.

12. Both the parties are directed to appear before the learned district court on **31.10.2025 at 10.30 A.M.** and file a joint petition of compromise for amicable settlement of their dispute.

13. Learned District Court is directed to take necessary steps to refer the matter before the learned Mediator of the District Mediation Center.

14. Learned Mediator of the District Mediation Center concerned shall make his/her best efforts to settle the dispute amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of four months, till then, no coercive action shall be taken against the petitioners in connection with the aforesaid case.

15. In case of failure on the part of the petitioner to appear on 31.10.2025 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioner and the stay of order dated 02.08.2025



passed by the learned District and Additional Sessions Judge IV, Bagaha, West Champaran shall automatically lose its force.

16. In case, the parties fail to reconcile, the parties may avail appropriate remedy in accordance with law.

17. Accordingly, the present bail application stands disposed of.

(Purnendu Singh, J)

chn/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.10.2025
Transmission Date	NA.

