



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. _____ OF 2026
(Arising out of SLP (Crl) No.18490 of 2026)

Mrityunjay Kumar Chaudhary **...Appellant(s)**

Versus

State of Bihar & Anr. **...Respondent(s)**

ORDER

Leave granted.

2. The appeal is filed by a grieving father against the order of the High Court quashing the cognizance taken under Sections 302 and 201 of Indian Penal Code¹ against the 2nd respondent-accused; in an incident where the appellant's son drowned to death.

3. We heard learned Counsel for the appellant, respondent-State and the 2nd respondent.

4. Learned Counsel for the 2nd respondent, at the outset, submitted that there was cognizance taken by the Judicial Magistrate First Class, IV, Darbhanga and hence, this appeal

¹ In short 'IPC'

has become infructuous. Learned Counsel for the appellant alertly pointed out that, in fact, the cognizance, is taken note of in the impugned order at paragraph 4. The operative portion not only set aside the revisional order of the 7th Additional Sessions Judge, Darbhanga but also the order of the learned Magistrate accepting the final report of the Police and directing the protest petition to be registered as a complaint case. Hence, there is no cognizance taken as of now and no protest complaint pending.

5. We notice, on the facts of this case, that the appellant was the first informant who spoke of the deceased having been taken by the 2nd respondent from his house for a walk. Subsequently, one Ashok Chaudhary informed the family members that the first informant's son was found drowning near the State Boring and that despite his best efforts to save the drowning boy, he could not. The father rushed to the site and arranged boatmen to carry out a search in the river. The attempts of the boatmen turned unsuccessful, since the boy had disappeared having been swept away in the currents. This was the First Information Statement leading to the FIR, as seen from Annexure P1.

6. The Police conducted the investigation and filed a final report, upon which, the Court accepted the final report and directed the protest petition filed to be numbered as complaint by order dated 29.10.2021 and posted the complaint on 01.12.2021 for examination of the complainant, who was directed to be present.

7. A revision was taken from the order of the Judicial Magistrate First Class, IV, Darbhanga, produced at Annexure P5, which was disposed of by Annexure P6; by a detailed order. The 7th Additional Sessions Court directed the Magistrate's Court to reconsider the final report, pointing out the compelling circumstances which could commend cognizance in the case. The learned Magistrate, on re-examination of the materials, took cognizance, which has now been set at naught by the High Court; according to us, in a very casual manner, totally ignoring the compelling circumstances as has been brought out in the revisional order of the 7th Additional Sessions Judge.

8. On the consequence of a final report filed by the Police, which is termed a 'closure report', we extract herein paragraph 16 of ***Brajesh Kumar alias Birjesh Kumar Singh v.***

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‘16. Ram Naresh Prasad v. State of Jharkhand^{(2009) 11 SCC 299} held that when the police file a report, colloquially termed a ‘closure report’; finding no sustainable case made out, the Court cannot direct a charge sheet to be filed, but could always take cognizance on the basis of the material in the report or direct further investigation. H.S. Bains v. State (U.T. of Chandigarh) ^{(1980) 4 SCC 631} & Ramswaroop Soni v. State of M.P. ^{(2020) 18 SCC 327} reiterated that when a closure report is filed finding no offence made out, the Court has three options; (i) to accept the same and close the proceedings or (ii) take cognizance of the matter on the materials in the report or (iii) direct further investigation. It is thus open to the Magistrate on submission of a closure report to look into the material facts disclosed in the report and form an opinion as to whether it constitutes an offence and take cognizance of the offence under Section 190(1)(b). To buttress this position, Abhinandan Jha^{1967 SCC OnLine SC 107} made reference to Section 169 of the Code which provides that even if the police officer finds on investigation that there is no reasonable ground or sufficient evidence to put the accused on trial, the officer while releasing the accused has to take a bond for appearance before the Magistrate, if required. The primacy of the Court to take cognizance or deny it is the law discernible from the very provisions of the CrPC.’

9. With the above principle in mind, we look at the impugned order of the learned Single Judge. The impugned order first found that the postmortem did not suggest anything sinister, since the ‘death was due to asphyxia and ventricular fibrillation as a result of drowning in water’. We are afraid that the assumption is wrong, insofar as even if a person is pushed

² 2026 SCC OnLine 1311

into the water deliberately with the intention of drowning him, there would be nothing sinister coming forth in the postmortem report, which however, has to be tested on the attendant circumstances. Merely because the postmortem indicated death by drowning, it cannot be assumed that there was absolutely no foul play, since the specific contention taken up was that the deceased was taken by the 2nd respondent, and a little later, he was found drowning and there were attempts by third parties to save him. There were two witnesses who also spoke of having seen the 2nd respondent fleeing from the scene of occurrence; which makes it sinister and a trial, expedient to unravel the mystery regarding the death. Especially when the 2nd respondent who took the deceased from his house, with whom he was last seen, should proffer an explanation, more so, when he was found running away from the spot.

10. The further reasoning in the impugned judgment is that the FIR was lodged after the father of the deceased received information of the drowning of his son, which information was not disclosed in the FIR. A reading of the FIR, produced as Annexure P1, clearly indicates that the information was passed on to the father through one Ashok Chaudhary, who informed

the family members of the appellant. On such information having been received, he rushed to the spot and arranged boatmen to search for his son. The search having turned futile, a complaint was registered, specifically speaking of the 2nd respondent having picked up the deceased from the appellant's doorsteps, and a little later, Ashok Chaudhary having informed the drowning of his son. The finding of the High Court is flawed insofar as the documents having not been read properly.

11. We also find that the High Court has not looked at the order of the 7th Additional Sessions Judge, Darbhanga, despite it being noticed in the order; which lists out the compelling circumstances to suspect the closure report filed by the Police. We would not explain the circumstances which were relied upon by the 7th Additional Sessions Judge, Darbhanga, in Annexure P6-order to direct reconsideration of the issue by the learned Magistrate; lest the observations, at least by default, govern the trial. Suffice it to notice that the revisional order was in detail and specifically dealt with the statements recorded under Section 161 of Code of Criminal Procedure³ and took a *prima facie* view that there was material to enable a

³ In short 'CrPC'

trial. The decisions with respect to cognizance despite a closure report, were also noticed by the Additional Sessions Judge, all of which were casually brushed aside by the High Court. The Additional Sessions Judge found very compelling circumstances, on a *prima facie* consideration and the revisional order directed consideration of the final report afresh by the learned Magistrate.

12. We find absolutely no reason to interfere with the cognizance taken on the facts and circumstances as coming forth. We make it very clear that the view taken by the Additional Sessions Judge or by the learned Magistrate when taking cognizance or by us, in affirming the cognizance taken, shall not, in any manner, regulate or govern the trial. Section 161 CrPC statements, obviously, cannot be relied on at the trial, but definitely could be gone into at the time of cognizance, since that is the material available before the Court, as produced by the Police along with the final report. That the Court is entitled to take cognizance despite a closure report by the police, requires no reiteration.

13. We, hence, proceed to set aside the order of the High Court and remand the matter for expediting the trial. The 2nd respondent shall appear before the learned Magistrate, within

two weeks who shall carry out the committal proceedings in accordance with law. If the 2nd respondent does not appear within the time provided, then he shall be taken into custody and produced before the learned Magistrate for appropriate steps. On appearance or on production, the 2nd respondent shall be released on bail on such conditions as the Court deems fit, subject to co-operation in the trial.

14. The appeal stands allowed.

15. Pending application(s), if any, shall stand rejected.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
OCTOBER 09, 2026.**

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.) No.18490/2026

[Arising out of impugned final judgment and order dated 05-05-2026 in CR. MISC. No. 36193/2022 passed by the High Court of Judicature at Patna]

MRITYUNJAY KUMAR CHAUDHARY

Petitioner(s)

VERSUS

STATE OF BIHAR & ANR.

Respondent(s)

Date : 09-10-2026 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) : Mr. Sparsh Chaudhary, Adv.
Ms. Akansha- 4029, AOR
Mr. Naman Raj Singh, Adv.
Dr. Amardeep Gaur, Adv.

For Respondent(s) : Mr. Amit Chaudhary, Additional Standing
Counsel, Adv.
Ms. Aagam Kaur- 3639, AOR
Ms. Nisha Bhaskar, Adv.
Mr. Kartikey, Adv.
Ms. Shrijeta Pratik, Adv.

Mr. Anuj Prakaash, Adv.
Mr. Niraj Dubey, Adv.
Ms. Sohini Bardhan, Adv.
Mr. Pradum Kumar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeal is allowed in terms of the signed order.
3. Pending application(s), if any, shall stand disposed of.

(CHANDRESH)

ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)

COURT MASTER (NSH)

(Signed order is placed on the file)