

Present:

Mr. Justice Raziuddin Ahmed

Criminal Revision No.1100 of 2007

Md. Nazrul Islam @ Mojibul and others

----- Petitioners

-Vs-

The State, represented by the Deputy
Commissioner, Chapai Nawabganj

---- Opposite Party

No one appears,

----For the Petitioner

Mr. Md. Asad Uddin, D.A.G with

Mr. Md. Habibur Rahman Sarker, A.A.G and

Mr. Kazi Mohammad Moniruzzaman, A.A.G

---- For the State

Heard on 23.04. 2026, 03.05.2026 and
Judgment on 13.05.2026

On an application filed under section 439 read with section 435 the Code of Criminal Procedure, 1898 Rule was issued calling the upon the Deputy Commissioner, Chapai Nawabganj to show cause as to why the judgment and order dated 24.06.2007 passed by the learned Sessions Judge, Chapai Nawabganj in criminal Appeal No. 62 of 2003 dismissing the appeal and affirming the judgment and order dated 13.10.2003 passed by the learned Additional District Magistrate, Chapai Nawabganj, in G.R. No. 100 of 1996 arising out of Gomostapur Police Station Case No. 3 dated 23.04.1996 should

not be set aside and/or pass such other or further order or orders as this Court may deem fit and proper.

The prosecution case, in short, is that the case land belonged to the father and mother of the informant by purchase. Mustard seeds had been cultivated on the said land. On 08.02.1996, the informant, his brothers and some labourers went to the field and started reaping the mustard crop. At that time, the accused persons, including accused Nazrul Islam @ Mojibul Islam, came to the field, resisted them and started taking away the mustard seeds. When Kamal, brother of the informant, protested, accused Azizul Haque struck him with a ladna on his face, causing fracture on the bridge of his nose, and also caused bleeding injury on the back of his head. Accused Mostafa also struck him with a ladna on his right elbow, causing injury. Abdus Salam, who was passing by the place of occurrence, protested the acts of the accused persons, whereupon accused Nazrul Islam @ Mojibul Islam caused cut injuries on his left elbow with a ballam. Accused Mosharul struck him on the head with a ladna, causing bleeding injury. When Durul, another brother of the informant, came forward to rescue the victims, accused Rabbani caused injuries on his right hand and leg with a ladna. When Shah Alam, another brother of the informant, tried to save Durul, accused Enamul Haque struck him with a ladna, causing bleeding injury on his head. It was further alleged that the accused persons, acting in

concert, took away a bullock, a cart and Salam's bicycle, and damaged the mustard crop standing in the field. The injured persons were thereafter admitted to Rahanpur Hospital and the case was filed.

Upon investigation, police submitted charge-sheet No. 21 dated 13.07.1996 against the accused petitioners under sections 147, 148, 447, 323, 325, 326, 427, 379 and 114 of the Penal Code.

The learned Additional District Magistrate, Chapai Nawabganj framed charge against accused Nazrul Islam under sections 148, 326, 379 and 114 of the Penal Code; against accused Azizul under sections 147, 325 and 427 of the Penal Code; and against the other accused petitioners under sections 147, 148, 149 and 323 of the Penal Code. The charge was read over and explained to the accused petitioners, who pleaded not guilty and claimed to be tried.

At the trial, the prosecution examined 10 witnesses, while the defence examined none.

Upon consideration of the evidence and materials on record, the learned Additional District Magistrate, Chapai Nawabganj, by judgment and order dated 13.10.2003, convicted petitioner No. 1 under sections 148 and 325 of the Penal Code and sentenced him to suffer rigorous imprisonment for 6 months under section 148 and

rigorous imprisonment for 1 year under section 325 of the Penal Code. Petitioner No. 2 was convicted under sections 147 and 325 of the Penal Code and sentenced to suffer rigorous imprisonment for 6 months under section 147 and rigorous imprisonment for 1 year under section 325 of the Penal Code. Petitioners Nos. 3, 4 and 5 were convicted under sections 147 and 323 of the Penal Code and each was sentenced to suffer rigorous imprisonment for 6 months under section 147 and rigorous imprisonment for 6 months under section 323 of the Penal Code.

Being aggrieved, the accused petitioners preferred Criminal Appeal No. 62 of 2003 before the learned Sessions Judge, Chapai Nawabganj. The learned Sessions Judge, by judgment and order dated 24.06.2007, dismissed the appeal and affirmed the judgment and order of conviction and sentence passed by the trial Court.

Being aggrieved by and dissatisfied with the judgment and order dated 24.06.2007, the petitioners moved this Court in revision and obtained the present Rule on 26.08.2007 along with an order of bail.

At the time of hearing of the Rule, none appeared on behalf of the petitioners.

Mr. Kazi Mohammad Moniruzzaman, learned Assistant Attorney General appearing on behalf of the State, opposes the Rule

and submits that the prosecution has been able to prove the charges against the accused petitioners by consistent oral evidence, which is sufficiently corroborated by medical evidence. He further submits that both the Courts below, upon proper assessment of the evidence on record, arrived at concurrent findings of guilt, and there is no illegality, misreading, non-reading or non-consideration of evidence warranting interference by this Court in revisional jurisdiction.

I have heard the learned Assistant Attorney General for the State, perused the impugned judgments and orders passed by the Courts below and examined the evidence and materials on record.

At the outset, it is necessary to observe that revisional jurisdiction is not intended to operate as a regular appellate jurisdiction. In revision, this Court does not ordinarily reassess or reappraise the entire evidence as a Court of appeal. Interference is called for only where the findings of the Courts below are found to be perverse, based on misreading or non-reading of evidence, or where there is any manifest illegality or material irregularity resulting in failure of justice. Where the Courts below have arrived at concurrent findings of fact upon proper appreciation of evidence, such findings should not be lightly disturbed.

In the present case, P.W.1 Mohammad Mainul Islam, the informant, stated in his deposition that he, along with his brothers

Durul, Kamal and Alam, was reaping mustard from the field owned by their parents. At that time, accused Nazrul, Azizul, Mostafa, Mosharul, Ashraful, Durul, Anamul and others entered into the field being armed with sticks, ladna and hasua and unlawfully obstructed them. He stated that accused Azizul dealt a ladna blow on the head of Kamal, causing bleeding injury, and accused Mostafa caused injury to his little finger with a ladna. He further stated that his sister's husband Abdus Salam, while going to Rahanpur Hospital by bicycle, saw the occurrence and tried to restrain the accused persons. Accused Nazrul then struck him on the left elbow with a ballam, causing bleeding injuries, and accused Mosharul caused bleeding injury on his head with a ladna. He also stated that when Durul came forward, accused Emran caused bleeding injury on his head and accused Rabbani caused injuries to his right hand and leg with a ladna. Accused Anamul caused bleeding injury on the head of Shah Alam. He further stated that the accused persons took away the mustard seeds, bullock and Salam's bicycle.

P.W.2 Abdus Salam stated that accused Nazrul caused bleeding injuries on his left elbow with a ballam.

P.W.3 Kamal stated that accused Azizul caused injury to his nose and the back of his head with a ladna. He further stated that accused Mostafa struck him on his right elbow with a ladna, causing

injury. His evidence substantially supports the prosecution case and also corroborates the evidence of P.W.1.

P.W.4 Shah Alam stated that accused Anamul struck him on the head with a ladna, causing bleeding injury. His evidence also lends support to the prosecution version.

P.W.5 Joynal stated that he was an eyewitness to the occurrence and supported the material allegations made in the first information report as well as the evidence of P.W.1.

P.W.6 Manirul Islam was declared hostile. However, the mere fact that one witness was declared hostile does not, by itself, demolish the prosecution case when the same is otherwise supported by injured witnesses, eyewitnesses and medical evidence.

P.W.7 Monzur Ali stated that he was not present at the place of occurrence, but subsequently saw the informant and 3/4 others in injured condition.

P.W.8 Ittaj Ali also supported the prosecution case.

P.W.9 Dr. Anowar Islam Chowdhury stated that at the relevant time he was serving as Medical Officer at Gomostapur Health Complex. On 08.02.1996 at about 2.00 p.m., he examined victim Kamal and admitted him to Gomostapur Hospital. He found active nasal bleeding from the bridge of the nose, with possible

fracture of the nasal bone, grievous in nature and caused by a blunt weapon, which was confirmed by X-ray plate No. R-2. He also found a lacerated injury measuring $\frac{1}{2}$ inch on the dorsum of the middle and little finger of the right hand, simple in nature and caused by a blunt weapon.

P.W.9 further stated that on the same date he examined Durul Huda and found a cut injury measuring $\frac{1}{2}$ inch x $\frac{1}{2}$ inch, skin deep, on the left parietal region of the head; a lacerated injury measuring $\frac{1}{2}$ inch x $\frac{1}{2}$ inch on the back of the right elbow; and swelling measuring 2 inches x $\frac{1}{4}$ inch on the dorsum of the right hand. The injuries were simple in nature and caused by blunt weapon.

P.W.9 also examined Shah Alam on the same date and found a cut injury measuring $\frac{1}{2}$ inch x $\frac{1}{4}$ inch, skin deep, on the middle of the head, simple in nature and caused by blunt weapon.

P.W.10 Younus Ali Sarkar, Sub-Inspector of Police, investigated the case, visited the place of occurrence, prepared the sketch map, recorded the statements of witnesses under section 161 of the Code of Criminal Procedure and, upon completion of investigation, submitted charge-sheet against the accused persons.

On scrutiny of the evidence, it appears that the injured witnesses gave a clear and consistent account of the occurrence. Their evidence is substantially corroborated by the evidence of other

prosecution witnesses. The medical evidence of P.W.9 also supports the prosecution case regarding the nature of injuries, the weapons used and the time of occurrence. Minor inconsistencies or variations in the description of injuries do not affect the core of the prosecution case, particularly when the occurrence, participation of the accused petitioners and injuries sustained by the victims have been proved by reliable oral and medical evidence.

It further appears from the trend of cross-examination that there was previous enmity and litigation between the informant's family and the accused petitioners. P.W.1 admitted in cross-examination that accused Nazrul, as informant, had filed G.R. Case No. 104 of 1996 and Case No. 343 of 1996 against them, which were pending. He also stated that he filed C.R. Case No. 628 of 1996 against the accused petitioners and that other civil cases were pending between the parties. Previous enmity, no doubt, requires the Court to scrutinize the evidence with caution. But enmity by itself is not a ground to discard otherwise credible evidence. In the present case, the evidence of the injured witnesses is natural, consistent and supported by medical evidence. Therefore, the plea of previous enmity does not create any reasonable doubt sufficient to dislodge the prosecution case.

Section 146 of the Penal Code defines rioting and provides that whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting. Section 147 provides punishment for rioting, while section 148 deals with rioting armed with a deadly weapon. The evidence on record shows that the accused petitioners were present at the place of occurrence as members of the group, used force and violence, and their names were specifically mentioned in the first information report and in the evidence of the prosecution witnesses. Therefore, the conviction under sections 147 and 148 of the Penal Code, as applicable to the respective petitioners, was justified.

The conviction under section 325 of the Penal Code is also supported by the medical evidence relating to the grievous injury sustained by Kamal, particularly the nasal injury which was described by the doctor as grievous and confirmed by X-ray. The conviction under section 323 of the Penal Code against the remaining petitioners is also supported by the evidence of simple injuries caused during the occurrence.

In view of the evidence discussed above, I find no illegality, misreading, non-reading or non-consideration of evidence in the

concurrent findings of the Courts below. The conviction of the accused petitioners, therefore, calls for no interference.

Now the question arises as to the sentence.

The occurrence took place on 08.02.1996. The petitioners have faced the agony of criminal proceedings for a long period. It also appears that the sentences awarded were for 6 months and 1 year respectively, and that the accused petitioners have already undergone custody for a substantial period. Considering the facts and circumstances of the case, the nature of the offences, the long lapse of time, and the period of custody already undergone by the accused petitioners, I am of the view that the ends of justice would be sufficiently met if the sentences of imprisonment are reduced to the period already undergone.

Accordingly, the Rule is discharged with modification of sentence.

The judgment and order dated 24.06.2007 passed by the learned Sessions Judge, Chapai Nawabganj in Criminal Appeal No. 62 of 2003, affirming the judgment and order dated 13.10.2003 passed by the learned Additional District Magistrate, Chapai Nawabganj, is hereby maintained so far as the conviction of the accused petitioners is concerned. However, the sentences of imprisonment awarded against the petitioners are reduced to the period already undergone by them.

The accused petitioners are discharged from their bail bonds.

Let the lower Court records be sent down at once.

Communicate this judgment and order to the Court concerned immediately.