

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No. 46233 of 2014**

Arising Out of P.S. Case No.-465 Year-2012 Thana- SHEIKHPURA District- Sheikhpura

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1. Ram Bahadur Singh S/o Late Mahadeo Singh.
2. Uday Singh @ Uday Kr. Singh S/o Ram Bahadur Singh.
3. Bipin Kumar S/o Ram Pravesh Singh.  
All resident of Village - Bhados, P.S. - Sheikhpura, District - Sheikhpura.
4. Avinash Kr. Singh S/o Sudhir Kr. Singh, resident of Village Dehri, P.S. - Sheikhpura, District - Sheikhpura.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ashwini Kumar S/o Late Ramautar Singh resident of Village - Bhados, P.S. - Sheikhpura, District - Sheikhpura.

... .. Opposite Party/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.Pramod Kumar Singh and<br>Mr. Rahul Kumar Singh, Advocates |
| For the State        | : | Mr.Arun Kumar, A.P.P.                                         |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN  
AMANULLAH**

**ORAL JUDGMENT**

**Date : 01-02-2019**

Heard learned counsel for the petitioners and learned  
A.P.P. for the State.

2. Despite opposite party no. 2 entering appearance  
through learned counsel and the name of learned counsel also  
printed in cause list, nobody appeared when the matter was taken  
up and heard.

3. The petitioners have moved the Court under Section  
482 of the Code of Criminal Procedure, 1973 (hereinafter referred  
to as the 'Code') for the following relief:



*“That this is an application for quashing of the order dated 22.08.2014 passed in G.R. No. 1252/12 arising out of Sheikhpura P.S. Case No. 465/12 for the offences under Sections 420,467,468,506/34 of the Indian Penal Code whereby and whereunder the learned Sub-Divisional Judicial Magistrate, Sheikhpura has been pleased to dismiss the application filed by the petitioners under Section 239 of the Code of Criminal procedure fixing 13.11.14 as the next date in the case.”*

4. The allegation against the petitioners is that they had wrongly sold the land belonging to the share of the opposite party no. 2 and when he had gone to confront them, he was forced to retreat.

5. Learned counsel for the petitioners submitted that from the plain reading of the F.I.R., it is clear that the parties are agnates and the dispute relate to the share of the parties in the ancestral property. Learned counsel submitted that the petitioner no. 1 has also filed Title Suit No. 75 of 2014, against various persons including the opposite party no. 2, for partition of the ancestral land. It was submitted that the opposite party no. 2 has also filed Title Suit No. 51 of 2012 for declaration that the sale deed in favour of the petitioner no. 3 was void and illegal.

6. Learned A.P.P. fairly submitted that from the entire reading of the complaint case, no criminal conduct is reflected and the matter is purely civil in nature.



7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that a case for interference has been made out. As has rightly been submitted by learned counsel for the petitioners, the matter is purely civil in nature relating to dispute with regard to the share in the ancestral property for which also two civil suits are pending. Moreover, the allegation that the petitioners made the opposite party no. 2 run away when he had gone to talk to them is only cosmetic, and in any view of the matter does not constitute any criminal offence.

8. The Hon'ble Supreme Court in **State of Haryana vs. Bhajan Lal** reported as **1992 Supp (1) SCC 335**, at paragraph no. 102 has enumerated categories under which the Court should exercise its inherent power under Section 482 of the Code. The same reads as under:

*“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive*



*list of myriad kinds of cases wherein such power should be exercise.*

*(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

*(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

*(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

*(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*

*(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

*(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*



*(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

9. The present case, in the opinion of the Court, is covered under categories 1 and 7 of the aforesaid judgment of **Bhajan Lal** (supra) at paragraph no. 102.

10. For reasons aforesaid, the application is allowed. The entire criminal proceeding arising out of Sheikhpura P.S. Case No. 465 of 2012 (G.R. No. 1252 of 2012) including the order dated 22.08.2014, by which cognizance has been taken, as far as it relates to the petitioners, stand quashed.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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