

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.19374 of 2016**

Arising Out of PS. Case No.-87 Year-2011 Thana- DUMRAO District- Buxar

Maharaj Kumar Man Vijay Singh @ Manvijai Singh, son of Maharaja Kamal Singh, resident of Bhojpur Kothi Dumraon, P.S.- Dumraon, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Urwasi Kumari @ Urwasi Singh, D/o Group Captain Maharaj Kumar Ran Vijay Singh, resident of 30- Mohini Road, P.S.- Dehradun, District- Dehradun in the State of Uttarakhand.

... .. Opposite Party/s

with

**CRIMINAL MISCELLANEOUS No. 42776 of 2013**

Arising Out of PS. Case No.-87 Year-2011 Thana- DUMRAO District- Buxar

Shri Bharat Sher Singh Kalsia, S/o Karan Sher Singh Kalsia, R/o 30, Mohini Road, P.S- Dehradun, District- Dehradun, Uttarakhand.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Maharaj Kumar Manvijay Singh, S/o Maharaja Kamal Singh, R/o Bhojpur Kothi, Dumraon, P.S- Dumraon, District- Buxar.

... .. Opposite Party/s

with

**CRIMINAL MISCELLANEOUS No. 37087 of 2017**

Arising Out of PS. Case No.-87 Year-2011 Thana- DUMRAO District- Buxar

Maharaj Kumar Man Vijay Singh @ Manvijay Singh, Son of Maharaja Kamal Singh, R/o Bhojpur Kothi, Dumraon, P.S.- Dumraon, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Karn Vijay Singh @ Karan Vijay Singh, Son of Late M.K. Ran Vijay Singh, R/o 30-Mohini Road, P.S.- Dalan Wala, District- Dehradun (Uttara Khand).

... .. Opposite Party/s

**Appearance :**

(In CRIMINAL MISCELLANEOUS No. 19374 of 2016)

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|--------------------|---|---------------------------------------------------------------------|
| For the Petitioner | : | Mr. Rama Kant Sharma, Sr. Adv.<br>Mr. Lakshmi Kant Sharma, Advocate |
| For the O.P. No.2  | : | Mr. Mr. Chittranjan Sinha, Sr. Adv.<br>Mr. Alok Kumar, Advocate     |



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|-----------------------------------------------|-----------------------------------|
|                                               | Mr. Rajiv Shekhar, Advocate       |
| For the State :                               | Mr. Nagendra Prasad, APP          |
| (In CRIMINAL MISCELLANEOUS No. 42776 of 2013) |                                   |
| For the Petitioner :                          | Mr. A.B. Ojha, Sr. Adv.           |
|                                               | Mr. Rashid Izhar, Advocate        |
| For the Opposite Party :                      | Mr. Rama Kant Sharma, Sr. Adv.    |
| For the State :                               | Mr. Uday Chand Prasad, APP        |
| (In CRIMINAL MISCELLANEOUS No. 37087 of 2017) |                                   |
| For the Petitioner :                          | Mr. Rama Kant Sharma, Sr. Adv.    |
|                                               | Mr. Lakshmi Kant Sharma, Advocate |
| For the Opposite Party :                      | Mr. Alok Kumar, Advocate          |
|                                               | Mr. Rajiv Shekhar, Advocate       |
| For the State :                               | Mr. B.N. Pandey, APP              |

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA**  
**ORAL ORDER**

15    12-03-2021                      Cr. Misc. No.19374 of 2016 is filed against the order dated 16.02.2016, passed by learned Additional Sessions Judge-IV, Buxar in Criminal Revision No.57 of 2015, whereby and whereunder the learned Additional Sessions Judge set aside the order taking cognizance dated 18.11.2014, passed by the learned Chief Judicial Magistrate, Buxar in Dumraon P.S. Case No.87 of 2011, G.R. No.515 of 2011.

2. The same informant of Dumraon P.S. Case No.87 of 2011 filed Cr. Misc. No.37087 of 2017, against the order dated 04.03.2017, passed by the learned Additional Sessions Judge-IV, Buxar in Criminal Revision No.44 of 2016, whereby and whereunder the learned Additional Sessions Judge-IV, Buxar set aside the order dated 18.11.2014 taking cognizance of offences in Dumraon P.S. Case No.87 of 2011, corresponding to G.R. No.515 of 2011.

3. Shri Bharat Sher Singh Kalsia filed Cr. Misc.



No.42776 of 2013 for quashing the FIR of Dumraon P.S. Case No.87 of 2011, registered on 19.03.2011, under Sections 467, 468, 469 and 471 of the Indian Penal Code on the ground that the police of Buxar has got no territorial jurisdiction to institute and investigate the case and the police is under legal obligation to transfer the written statement given by the informant Maharaj Kumar Man Vijay Singh to Uttarakhand police for drawing FIR.

4. During the pendency of Cr. Misc. No.42776 of 2013, the petitioner filed I.A. No.1261 of 2017 for amendment of prayer and for quashing the order dated 18.11.2014, passed by the learned Chief Judicial Magistrate, Buxar in Dumraon P.S. Case No.87 of 2011, corresponding to G.R. No.515 of 2011, whereby the learned Chief Judicial Magistrate took cognizance of the offences under Sections 409, 467, 468, 471 and 420 of the Indian Penal Code, therefore, all the aforesaid three cases are heard together as the order taking cognizance dated 18.11.2014 in Dumraon P.S. Case No.87 of 2011, passed in two Criminal Revision petitions being Criminal Revision No.57 of 2015 and Criminal Revision No.44 of 2016, setting aside the order taking cognizance dated 18.11.2014 in Dumraon P.S. Case No.87 of 2011 are assailed in these criminal miscellaneous petitions.

5. The facts relevant for disposal of these cases are that the informant Maharaj Kumar Man Vijay Singh @ Manvijay



Singh gave written statement before the S.H.O. of Dumraon P.S. on the basis of which Dumraon P.S. Case No.87 of 2011 was registered. The informant alleged that Rajkumar Karan Vijay Singh, Son of Group Captain Late Ranvijay Singh sold a property belonging to five persons of the informant family including the informant. The informant and his family members had earlier given Power of Attorney to Karan Vijay Singh. The informant and others are owners of the property bearing Khesra Nos.459ख, 472, 474, 475, 476 and 478 and Khesra No.459ख, 477ख, 478ग and 482, situated in village Karbari Grant, Tehsil Vikash Nagar, Pargana-Pachhwain, District Dehradun. The informant and his brother, Kumar Chandra Vijay Singh, both sons of Maharaja Kamal Singh, Smt. Sangeeta Kumari, Rani Indumati, R.B. Singh, the *Bua*, father, sisters and aunt of the informant executed a Power of Attorney on 12.04.1994 for management and maintenance of their property. The principal of Power of Attorney also stated that Power of Attorney holder shall sell, pursue the litigation, file the plaint after obtaining signature of the principal of the Power of Attorney. Karan Vijay Singh, the Power of Attorney holder, sold some portion of property of the informant and others to Shri Bharat Sher Singh Kalsia, the petitioner of Cr. Misc. No.42776 of 2013 and, on such, the informant sent legal notice to Power of Attorney holder asking him to give the details of the sale made in conspiracy with



Shri Bharat Sher Singh Kalsia and a notice was also given to revoke the Power of Attorney but the agent did not give any information to the informant and others who had executed the Power of Attorney and, on such, the informant filed the case at Dumraon alleging therein that the Power of Attorney holder misused the provisions of the Power of Attorney, misappropriated the property, did not rendition the account and executed fraudulent sale deeds without obtaining the signature of the principals of the Power of Attorney. The police after investigation submitted final form finding the case true under Sections 467, 468, 469 and 471 IPC and the learned Chief Judicial Magistrate thereupon took cognizance of the offences under different sections of the Indian Penal Code on 18.11.2014. Karn Vijay Singh @ Karan Vijay Singh filed Criminal Revision No.44 of 2016, against the order dated 18.11.2014 taking cognizance under different sections of the Indian Penal Code and Urwasi Kumari @ Urwasi Singh filed Criminal Revision No.57 of 2015, against the order dated 18.11.2014 taking cognizance in Dumraon P.S. Case No.87 of 2011. Both the criminal revisions petitions were allowed and the order taking cognizance was set aside, therefore, the informant filed the present two criminal miscellaneous petitions being Cr. Misc. No.19374 of 2016 and Cr. Misc. No.37087 of 2017.

6. Heard Mr. Rama Kant Sharma, the learned Senior



Counsel appearing on behalf of the petitioners in Cr. Misc. No.19374 of 2016 and Cr. Misc. No.37087 of 2017 as well as on behalf of opposite party no.2 in Cr. Misc. No.42776 of 2013, Mr. Chittranjan Sinha, the learned Senior Counsel for the opposite party no.2 in Cr. Misc. No.19374 of 2016 and Cr. Misc. No.37087 of 2017, Mr. A.B. Ojha, the learned Senior Counsel for the petitioner in Cr. Misc. No.42776 of 2013.

7. Mr. Rama Kant Sharma, learned counsel for the petitioners submits that Karan Vijay Singh @ Raj Kumar Karan Vijay Singh and Urwasi Kumari @ Urwasi Singh, opposite party no.2 in Cr. Misc. No.19374 of 2016 earlier filed Cr.W.J.C. No.856 of 2013 and Cr.W.J.C. No.861 of 2013 for quashing the FIR of Dumraon P.S. Case No.87 of 2011 on the ground of territorial jurisdiction. A Bench of this Court disposed of the aforesaid two criminal writ petitions with a direction to the petitioners of those writ petition to appear before the Investigation Officer and raise their grievance by order dated 21.04.2014. Being aggrieved with the aforesaid order, they preferred Special Leave to Appeal (Cri.) ....CRI.MP No(s).18620/2014 before the Hon'ble Supreme Court and vide order dated 07.11.2014, the special leave petition was dismissed as withdrawn in view of the charge-sheet having been filed, therefore, the question of territorial jurisdiction is negated and the criminal miscellaneous petition filed by the purchaser of



the land being Cr. Misc. No.42776 of 2013 for quashing of the FIR is devoid of any merit. It is further submitted that during the pendency of the quashing petition filed for quashing of the FIR, the purchaser filed amendment petition and seek quashing of the order taking cognizance. It is further submitted that the two other accused persons, namely, Karn Vijay Singh @ Karan Vijay Singh and Urwasi Kumari @ Urwasi Singh filed Criminal Revision No.44 of 2016 and Criminal Revision No.57 of 2015, which was heard and disposed of by the IV<sup>th</sup> Additional Sessions Judge, Buxar setting aside the order dated 18.11.2014 by which cognizance of the offences was taken on the ground that in view of the provisions as contained in Section 177 Cr.P.C., the Court of Chief Judicial Magistrate at Buxar has got no territorial jurisdiction to take cognizance.

8. Mr. Rama Kant Sharma, the learned Senior Counsel submits that the learned Additional Sessions Judge has completely over looked the provisions of Sections 178, 179 and onwards upto 184 of Chapter XIII of the Code of Criminal Procedure, which deal with the different nature of offences and their place of trial. Sections 178, 179 and 180 Cr.P.C. clearly provide with regard to offence partly committed in one area and partly in another area and the offence committed in more local areas than one and the court having jurisdiction over any such local area may try the case.



Similarly offence consists of several acts done in different local area, it may be inquired into and tried by a court having jurisdiction over such local area. Where something is an offence by which reason of act done as well as the consequence that ensue then the offence may be inquired into and tried by a court within whose local jurisdiction, the act was done or the consequence was ensued. In cases where act is an offence by a reason of its relation to any other act, which is also an offence, then the first mentioned offence may be inquired into and tried by a court within whose local jurisdiction either of the acts was done, but the learned Additional Sessions Judge illegally set aside the order taking cognizance on the ground that the sale deed was executed at Dehradun and, therefore, the cause of action arose only in Dehradun. The learned court below over looked the facts that the informant and his family members had executed Power of Attorney in favour of Karan Vijay Singh at Buxar and the same was notarized at Buxar. On the basis of such execution of the Power of Attorney at Buxar, Raj Kumar Karan Vijay Singh got authorization to manage and maintain the property of the principal at Dehradun. He also executed the sale deed in question at Dehradun, therefore, the facts, first acts of authorization happened in the territorial jurisdiction of the district of Buxar and the second acts were done at Dehradun when the Power of Attorney holder



managed, maintained, looked after and sold the property alleged to be fraudulently to the purchaser, therefore, the orders are illegal and not sustainable. Mr. Rama Kant Sharma, the learned Senior Counsel placed his reliance on the judgment of Kaushik Chatterjee v. State of Haryana and others., AIR 2020 SC 4633.

9. Mr. A.B. Ojha, the learned Senior Counsel appearing on behalf of the petitioner in Cr. Misc. No.42776 of 2013 and Mr. Chittranjan Sinha, the learned Senior Counsel for the opposite parties in Cr. Misc. No.19374 of 2016 and Cr. Misc. No.37087 of 2017 mainly made two folds submissions. It is submitted that the Power of Attorney holder executed the sale deed at Dehradun. The informant and his family members have duly authorized the agent to manage, maintain and sale the lands after receiving the consideration money. The agent looked after the property, sold the property and executed the sale deed at Dehradun, therefore, no part of the act of the agent was committed within the territorial jurisdiction of the district of Buxar. Mr. A.B. Ojha, the learned Senior Counsel further submits that the informant filed Civil Suit No.27 of 2011 in the court of Additional District Judge, Vikash Nagar, Dehradun for setting aside the sale deed executed by the Power of Attorney holder and for rendition of accounts. The suit was dismissed and it was found that the agent was duly authorized under the Power of Attorney to sell the property after receiving



consideration amount on behalf of the principals and the principals are also not required to get rendition of accounts, therefore, no offence under any of the sections of the Indian Penal Code is made out and the dispute is of civil nature. The informant has already filed appeal against the order passed in Civil Suit No.27 of 2011. It is further submitted that the informant and his family members do not intend to give property to Power of Attorney holder and his sister Urwasi Singh, who are none else than own first cousin of the informant. Mr. A.B. Ojha, the learned Senior Counsel submits that even in an application for quashing the order taking cognizance, the court can set aside the order taking cognizance if on perusal of the contents of the FIR and the materials collected during the course of investigation, no offence is made out. Mr. Ojha further submits that the informant deposed in the suit admitting the cause of action arose at Dehradun. Mr. Ojha placed reliance of the judgment of this Court passed in Cr. Misc. No.14099 of 2016 and 1989 (1) PLJR 172, Surendra Kumar Yadav Vs. The State of Bihar.

10. Mr. Chittranjan Sinha, the learned Senior Counsel further supporting the contentions of Mr. A.B. Ojha submits that from perusal of the contents of the Power of Attorney, it would appear that in Clause 3 and 11 of Power of Attorney, the executor of Power of Attorney clearly give unbridled power to the agent to



maintain, manage, look after, deal with the property and sale the property. To sell the property includes to negotiate for the sale, execute the sale deed and present the same for its registration, therefore, Clause 15 of the Power of Attorney containing the clause that before presenting the sale deed for registration, the agent shall obtain the signature of the principal is redundant. The law of construction requires the deed to be read harmoniously. If the harmonious construction of the deed is not given, the later part of the deed making the earlier part of the deed some what impossible, the later part should be discarded. The learned Senior Counsel placed his reliance on the judgment of Ramkishorelal v. Kamalnarayan, AIR 1963 SC 890.

11. Mr.Chittranjan Sinha, the learned Senior Counsel further submits that the registration of the Power of Attorney is not required as envisaged under Section 33 of the Registration Act if the agent or Power of Attorney holder himself executes the sale deed and presents the same before the registering authority. Mr. Sinha placed his reliance on the judgment of the Hon'ble Supreme Court in Rajni Tandon vs. Dulal Ranjan Ghosh Dastidar, (2009) 14 SCC 782 and a judgment of the Kerala High Court in C.P. Ashok Kumar vs. Sub Registrar on 1 October, 2018, passed in WP(C). No.31900 of 2018.

12. Having heard the submissions of both sides, I find



that only question to be decided in these cases is whether the court at Buxar has competence and territorial jurisdiction to take cognizance and try the cases?

13. Having considered the submissions of both sides, it would be profitable to reproduce and have a look at the provisions of Sections 177, 178, 179 and 180 of the Code of Criminal Procedure, which reads as follows:

***177. Ordinary place of inquiry and trial.-***

*Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.*

***178. Place of inquiry or trial.-****(a) When it is uncertain in which of several local areas an offence was committed, or*

*(b) where an offence is committed partly in one local area and partly in another; or*

*(c) where an offence is a continuing one, and continues to be committed in more local areas than one, or*

*(d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.*

***179. Offence triable where act is done or consequence ensues.-****When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.*

***180. Place of trial where act is an***



***offence by reason of relation to other offence.-***

*When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, the first-mentioned offence may be inquired into or tried by a Court within whose local jurisdiction either act was done.*

14. Section 177 Cr.P.C. says that every offence shall be tried within whose local jurisdiction which was committed. The expression local jurisdiction is defined in Section 2(j) of the Code of Criminal Procedure in relation to a Court or Magistrate, means the local area within which the Court or Magistrate may exercise all or any of its or his powers under this Code, but in case of uncertainty about the place in which, among the several local areas, an offence was committed, the Court having jurisdiction over any of such local areas may inquire into or try such an offence.

15. In this regard, it is profitable to reproduce para 21 and 39 of the judgment of the Hon'ble Supreme Court in the case of Kaushik Chatterjee v. State of Haryana and others., AIR 2020 SC 4633, which read as follows:

*“21. The principles laid down in Sections 177 to 184 of the Code (contained in Chapter XIII) regarding the jurisdiction of criminal Courts in inquiries and trials can be summarized in simple terms as follows:*

*(1) Every offence should ordinarily be inquired into and tried by a Court within whose local*



*jurisdiction it was committed. This rule is found in Section 177. The expression “local jurisdiction” found in Section 177 is defined in Section 2(j) to mean “in relation to a Court or Magistrate, the local area within which the Court or Magistrate may exercise all or any of its or his powers under the Code”*

*(2) In case of uncertainty about the place in which, among the several local areas, an offence was committed, the Court having jurisdiction over any of such local areas may inquire into or try such an offence.*

*(3) Where an offence is committed partly in one area and partly in another, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.*

*(4) In the case of a continuing offence which is committed in more local areas than one, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.*

*(5) Where an offence consists of several acts done in different local areas it may be inquired into or tried by a Court having jurisdiction over any of such local areas (Numbers 2 to 5 are traceable to Section 178)*

*(6) Where something is an offence by reason of the act done, as well as the consequence that ensued, then the offence may be inquired into or tried by a Court within whose local jurisdiction either the act was done or the consequence ensued. (Section 179)*

*(7) In cases where an act is an offence, by reason of its relation to any other act which is also an offence, then the first mentioned offence may be inquired into or tried by a Court within whose*



*local jurisdiction either of the acts was done.  
(Section 180)*

*(8) In certain cases such as dacoity, dacoity with murder, escaping from custody etc., the offence may be inquired into and tried by a Court within whose local jurisdiction either the offence was committed or the accused person was found.*

*(9) In the case of an offence of kidnapping or abduction, it may be inquired into or tried by a Court within whose local jurisdiction the person was kidnapped or conveyed or concealed or detained.*

*(10) The offences of theft, extortion or robbery may be inquired into or tried by a Court within whose local jurisdiction, the offence was committed or the stolen property was possessed, received or retained.*

*(11) An offence of criminal misappropriation or criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any part of the property was received or retained or was required to be returned or accounted for by the accused persons.*

*(12) An offence which includes the possession of stolen property, may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the stolen property was possessed by any person, having knowledge that it is stolen property. (Nos. 8 to 12 are found in Section 181)*

*(13) An offence which includes cheating, if committed by means of letters or telecommunication messages, may be inquired into or tried by any Court within whose local jurisdiction*



*such letters or messages were sent or received.*

*(14) An offence of cheating and dishonestly inducing delivery of the property may be inquired into or tried by a Court within whose local jurisdiction the property was delivered by the person deceived or was received by the accused person.*

*(15) Some offences relating to marriage such as Section 494, IPC (marrying again during the life time of husband or wife) and Section 495, IPC (committing the offence under Section 494 with concealment of former marriage) may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with the spouse by the first marriage. (Nos. 13 to 15 are found in Section 182)*

*(16) An offence committed in the course of a journey or voyage may be inquired into or tried by a Court through or into whose local jurisdiction that person or thing passed in the course of that journey or voyage. (Section 183).*

*(17) Cases falling under Section 219 (three offences of the same kind committed within a space of twelve months whether in respect of the same person or not), cases falling under Section 220 (commission of more offences than one, in one series of acts committed together as to form the same transaction) and cases falling under Section 221, (where it is doubtful what offences have been committed), may be inquired into or tried by any Court competent to inquire into or try any of the offences. (Section 184).*

*21A. Apart from Sections 177 to 184, which lay down in elaborate detail, the rules relating to jurisdiction, Chapter XIII of the Code also contains a few other sections. Section 185 empowers*



*the State Government to order any case or class of cases committed for trial in any district, to be tried in any Sessions division. Section 186 empowers the High Court, in case where 2 or more courts have taken cognizance of the same offence and a question as to which of them should inquire into or try the offence has arisen, to decide the district where the inquiry or trial shall take place. Section 187 speaks of the powers of the Magistrate, in case where a person within his local jurisdiction, has committed an offence outside his jurisdiction, but the same cannot be inquired into or tried within such jurisdiction. Sections 188 and 189 deal with offences committed outside India.”*

*“39. But be that as it may, the upshot of the above discussion is (i) that the issue of jurisdiction of a court to try an “offence” or “offender” as well as the issue of territorial jurisdiction, depend upon facts established through evidence (ii) that if the issue is one of territorial jurisdiction, the same has to be decided with respect to the various rules enunciated in sections 177 to 184 of the Code and (iii) that these questions may have to be raised before the court trying the offence and such court is bound to consider the same.”*

16. In the present case, the informant alleged that the Power of Attorney was executed in the district of Buxar and was duly notarized at Buxar, therefore, the first cause of action of authorization to the agent for management, maintenance, execution of the deeds, looking after the properties, rendition of accounts and to look after the litigation and sale the property is at Buxar and the subsequent actions and acts are done by the agent at



Dehradun, therefore, in view of the law laid down by the Hon'ble Supreme Court in the case of Kaushik Chatterjee (supra) that the issue of jurisdiction of a court to try an offence or offender as well as the issue of territorial jurisdiction depend upon the facts established through evidence that if the issue is one of territorial jurisdiction, the same has to be decided with respect to the various rules enunciated in sections 177 to 184 of the Code and that the answer of these questions depends upon the facts to be established by evidence. The facts to be established by evidence may relate either to the place of commission of the offence and are dealt with in Sections 177 to 184 of the Code, but from perusal of the order of the learned Additional Sessions Judge, it is apparent that the learned Additional Sessions Judge has only relied upon provision of Section 177 Cr.P.C. and completely over looked with regard to the offences of different natures committed in different localities and the acts which itself is an offence and the consequence ensued in other local areas and illegally jumped to the conclusion that the court of Chief Judicial Magistrate has got no territorial jurisdiction and, therefore, the Additional Sessions Judge committed jurisdictional error as well as material irregularity and set aside the order taking cognizance and, thus, the orders passed in Criminal Revision No.57 of 2015 and Criminal Revision No.44 of 2016 are not sustainable.



17. So far as the contention of the learned Senior Counsel for the petitioners and opposite parties that the dispute is of civil nature and the agent duly authorized under the Power of Attorney has committed no offence is concerned, it appears from perusal of the Power of Attorney that the principals who executed the Power of Attorney clearly mentioned about the power to be exercised by the agent on behalf of the principals. Clause 3 and 11 say that the agent shall manage, maintain, sale the property. Clause 15 stipulates that the agent shall obtain the signature of the principals before presenting the sale deed for registration and all the clauses of Power of Attorney are read harmoniously. No clause appears to be redundant. Clause 15 only defines the power of the agent that he shall obtain the signature of principals before presenting the sale deed for registration. In case a person executed a deed of gift but in subsequent paragraph of the deed, he restricted the powers of the donee not to sell or alienate the property, therefore, the later part of the deed was considered to be redundant. In the case of Rajni Tandon (supra), the Hon'ble Supreme Court held that if the agent, Power of Attorney holder, executes the sale deed and presents the same before the Registrar for registration, the Registrar has to register the sale deed even if the Power of Attorney is not authentic and registered under Section 33A of the Registration Act. It is held that the object of



Section 33 (1) is to prevent fraud and no fraud is alleged in the present case. If the harmonious construction of the entire deed of Power of Attorney is made, it appears that the agent was required to obtain signature of the principals, executor of the Power of Attorney, before presenting the same to the Registrar for registration. However, the findings on this point shall not prejudice either party since the appeal is pending. If an act gives rise to a civil action as well as constitute a criminal offence the person who was wronged can sue that person by filing suit and also institute criminal case. Pursuing the civil litigation does not preclude that person to prosecute the wrong doers in criminal courts.

18. Having considered the facts and discussions made above, I find that the learned Additional Sessions Judge, Buxar has committed jurisdictional error and the orders are not sustainable and fit to be set aside. Accordingly, the order dated 16.02.2016, passed by learned Additional Sessions Judge-IV, Buxar in Criminal Revision No.57 of 2015 as well as the order dated 04.03.2017, passed by the learned Additional Sessions Judge-IV, Buxar in Criminal Revision No.44 of 2016 are set aside. The order taking cognizance dated 18.11.2014, passed by learned Chief Judicial Magistrate, Buxar in Dumraon P.S. Case No.87 of 2011 does not require any interference.

19. Accordingly, Cr. Misc. No.42776 of 2013 is



dismissed. Cr. Misc. No.19374 of 2016 and Cr. Misc. No.37087 of  
2017 are allowed.

**(Prabhat Kumar Jha, J)**

S.KUMAR/-

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