

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8406 of 2023

Arising Out of PS. Case No.- Year-0 Thana- District- Siwan

ALI HUSSAIN SON OF RAJAK MIYAN R/O VILLAGE- HABIBPUR,
P.O.- MAHMOODPUR, P.S.- BARHARIA, DISTRICT- SIWAN

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. HAZRAT ALI SON OF LATE ABDUL HAQUE R/O VILLAGE-
HABIBPUR, P.O.- MAHMODPUR, P.S.- BARHARIA, DISTRICT-
SIWAN
3. SALAUDDIN SON OF LATE RAJ MOHAMMAD R/O VILLAGE-
HABIBPUR, P.O.- MAHMODPUR, P.S.- BARHARIA, DISTRICT-
SIWAN
4. SADDAM SON OF SALAUDDIN R/O VILLAGE- HABIBPUR, P.O.-
MAHMODPUR, P.S.- BARHARIA, DISTRICT- SIWAN
5. WASIM SON OF SALAUDDIN R/O VILLAGE- HABIBPUR, P.O.-
MAHMODPUR, P.S.- BARHARIA, DISTRICT- SIWAN
6. MANEER SON OF LATE LAL MOHAMMAD R/O VILLAGE-
HABIBPUR, P.O.- MAHMOODPUR, P.S.- BARHARIA, DISTRICT-
SIWAN

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Ashwani Raj Narayan, Advocate
For the State	:	Mr. Navin Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 04-03-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. This application has been filed under Section 482
of the Code of Criminal Procedure, 1973, on behalf of petitioner
for quashing the order 29.09.2022 passed by the learned
Additional District and Sessions Judge-VI, Siwan, in Criminal
Revision No.1 94 of 2019 whereby and where under the learned



Additional District and Sessions Judge-VI, Siwan, has been pleased to set aside the order dated 18.11.2019 passed by the learned Sub-Divisional Magistrate, Siwan Sadar, Siwan, in Misc. No. 2271 of 2019, for proceedings under Section 144 of the Code of Criminal Procedure, 1973.

3. It is submitted by learned counsel appearing on behalf of the petitioner that the impugned order is improper, erroneous and otherwise bad in law and facts both. The impugned order has been passed merely on the basis of conjectures and surmises. Learned counsel for the petitioner further submits that the order of learned Sub-Divisional Magistrate, Siwan Sadar, Siwan, dated 18.11.2019, passed in Misc. No. 2271 of 2019 is in accordance with law and against which criminal revision is not maintainable. It is next submitted that there is no illegality, impropriety or error in the order dated 18.11.2019 passed by the learned Sub-Divisional Magistrate in Misc. No. 2271 of 2019 and as such, the impugned order dated 29.09.2022, passed by the learned Additional District and Sessions Judge-VI, Siwan, is fit to be quashed.

4. On the other hand, learned A.P.P. for the State, while supporting the impugned order, has vehemently opposed the submissions advanced on behalf of the petitioner and



submitted that it is settled law that when dispute regarding right, title and possession is pending before the court of competent jurisdiction, invoking jurisdiction of criminal court is not justified.

5. Having heard the rival submissions advanced on behalf of the parties and after perusing the impugned order and materials available on record, it is apparent that dispute between the parties with regard to right, title and possession bearing Second Appeal No. 169 of 2018 is still pending before this Hon'ble Court for adjudication. The Hon'ble Apex Court in the case of ***Ram Sumer Puri Mahant versus State of U.P. and Others*** reported in ***AIR 1985 SC 472***, has held that when a civil litigation is pending for the property wherein the question of possession is involved and is pending for adjudication, initiation of a parallel criminal proceeding under Section 145 of the Code of Criminal Procedure would not be justified. The parallel proceedings should not be permitted to continue and in the event of a decree of the civil court, the criminal court should not be allowed to invoke its jurisdiction. Multiplicity of litigation is not in the interest of the parties, nor should public time be allowed to be wasted over meaningless litigation.

6. In view of the foregoing discussions, I do not find



any illegality in the impugned order.

7. Accordingly, this quashing application is dismissed.

(Prabhat Kumar Singh, J)

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