

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.41053 of 2016**

Arising Out of PS. Case No.- Year-1111 Thana- District-

- 
1. Ramuni Devi Wife of Akshay Kumar Singh.
  2. Akshay Kumar Singh. Son of Nagina Singh, Both are residents of Village- Chakchatar, P.S.- Dawath, District- Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sri Niwas Tiwary, Son of Nanhku Tiwary, Resident of Village- Dhangain, P.S.- Bikramganj, District- Rohtas.

... .. Opposite Party/s

---

**Appearance :**

|                          |   |                                |
|--------------------------|---|--------------------------------|
| For the Petitioner/s     | : | Mr. Sudama Singh, Advocate     |
|                          |   | Mr. Arun Kumar Singh, Advocate |
| For the Opposite Party/s | : | Mr. Sunil Kumar Pandey, APP    |

---

**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI**  
**ORAL ORDER**

8      09-08-2024                      The petitioners have approached this Court for quashing of an order dated 22.01.2016 passed by the learned S.D.M. Bikramganj, Rohtas in Case No.702 of 2015 whereby and whereunder, the learned Magistrate converted a proceeding under Section 144 of the Cr.P.C. to a proceeding under Section 145 of the Cr.P.C.

2. It is submitted by the learned Advocate for the petitioners that generally the provision contained in 482 Cr.P.C. saving inherent power of this Court is not applicable in a case where the impugned order is revisable but where there is miscarriage of justice, the order can be reviewed by this Court



under Section 482 of the Cr.P.C.

3. It is further submitted by the learned Advocate for the petitioners that the proceeding under Section 145 of the Cr.P.C. was drawn on 22.01.2016 and during the lapse of this eight years, the said proceeding has not been disposed of and still it is at the initial stage of hearing.

4. It is needless to say that the provision under Section 145 of the Cr.P.C. is brought in the statute book for settlement of dispute concerning land or water, which is likely to cause breach of peace. The Sub Divisional Magistrate has no power under Section 145 of the Cr.P.C. to decide the question of title and possession over the property in proceeding.

5. Learned Advocate for the petitioners also submits that on the self same prayer of title and possession a civil suit between the parties bearing Title Suit No.1120 of 2014 is pending. The competent Civil Court can alone decide the question of title and possession.

6. Since, civil suit is pending between the parties, the proceeding under Section 145 of the Cr.P.C. is not maintainable.

7. Thus, I agree with the submission made by the learned Advocate for the petitioners that the proceeding under Section 145 of the Cr.P.C. was maliciously drawn.



8. For the reasons stated above, the instant Cr. Misc.  
Case is allowed on contest.

9. The proceeding under Section 145 of the Cr.P.C.  
bearing Case No.702 of 2015 be set aside and quashed.

**(Bibek Chaudhuri, J)**

mdrashid/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

