

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8566 of 2019

Arising Out of PS. Case No.-247 Year-2017 Thana- SAHPUR District- Bhojpur

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1. SRI KAUSHAL TIWARY @ KAUSHAL KUMAR TIWARI @ MUNMUN TIWARY AND ORS Son of Ramdhari Tiwari Resident of Village- Milki Ishawarpura, P.S.- Shahpur, Dist- Bhojpur.
 2. Arvind Tiwari @ Arvind Kumar Tiwary Son of Sri Kaushal Tiwary @ Munmun Tiwary Resident of Village-milki Ishwarpura, P.S.- Shahpur, Dist- Bhojpur.
 3. Abhishek Tiwary @ Raj Kumar Tiwary Son of Sri Kaushal Tiwary @ Munmun Tiwary Resident of Village-Milki Ishwarpura, P.S.- Shahpur, Dist- Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Abhimanyu Tiwari S/o Dhananjay Tiwari Resident of Village-milki Ishwarpura, P.S.- Shahpur, Dist- Bhojpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	None
For the Opposite Party/s	:	Mr. Manish Kumar No2, APP
For the O.P. No.2	:	Mr. Bhaskar Shankar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 03-11-2025 No one appears on behalf of the petitioners, however, Mr. Manish Kumar No.2, learned APP for the State and Mr. Bhaskar Shankar, learned counsel for the O.P. No.2 have tendered their appearance.

2. Learned counsel appearing on behalf of the O.P. No.2 informs that *vide* order dated 21.04.2025, the further proceeding in connection with Sahpur P.S. case No.247 of 2017 pending in the Court of Additional Chief Judicial Magistrate IV, Ara was stayed. He further submitted that the trial has



proceeded and out of 8, total 5 prosecution witnesses have been examined. Considering the said fact and the conduct of the petitioner, who is avoiding to appear before this Court after obtaining interim protection and at the same time, the learned District Court concerned has restrained from proceeding with the trial, in the interest of justice, the further proceeding which has been stayed by this Court is required to be recalled.

3. *Per contra*, learned APP appearing on behalf of the State submitted that as the petitioner is not showing any interest and he has also participated in the trial, it would be in the interest of justice to recall the order dated 21.04.2025, so that, trial may proceed. He, however, informs that there is case and counter case between the parties arising out of land dispute, as would appear from the bare perusal of the FIR and the same can be settled amicably by the parties outside the Court.

4. Heard the parties.

5. Having considered the rival submissions made on behalf of the parties, as well as, having perused the allegation made in the FIR, I find that primarily the dispute is with regard to passage and drainage passing through the same and the parties have filed criminal cases against each other, which I find can be resolved amicably by mutual settlement. If the parties so



desire may proceed to file a joint application for settlement of their dispute.

6. The Apex Court passed in case of ***Paramjeet Batra v. State of Uttarakhand***, reported in ***(2013) 11 SCC 673***, wherein in paragraph no. 12, the court has held as under:-

12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court.

7. The Apex Court has reiterated the aforesaid preposition in recent judgment of ***S.N. Vijayalakshmi & Ors. Vrs. The State of Karnataka and Anr.*** reported in ***(2025) SCC Online SC 1575***.

8. Considering the nature of allegation, I find that the matter can be resolved amicably outside the Court by way of mediation and the petitioner and O.P. No.2 are directed to



appear before the learned District Court on 01.12.2025 at 10.30am.

9. Learned District Court is directed to take necessary steps to refer the matter before the learned mediator of the District Mediation Center.

10. Learned Mediator of the District Mediation Center concerned shall make his/her best efforts to settle the dispute amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of four months. Till then, no coercive steps shall be taken against the petitioner in connection with the aforesaid case.

11. In case of failure on the part of the petitioner to appear on 01.12.2025 at 10.30am before the learned District Court, the interim protection granted to the petitioner shall automatically lose its force and the District Court may take appropriate action in accordance with law.

12. In case the parties fail to reconcile then in that case the learned District Court shall proceed with the trial.

13. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

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