

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36231 of 2024

Arising Out of PS. Case No.-390 Year-2023 Thana- KATIHAR NAGAR District- Katihar

Dulal Kanti Nandi Son of Late Harendra Kumar Nandi Resident of Mohalla -
Binodpur, Chunagali, Police Station - Katihar, District - Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ravindra Prasad Bhagat Son of Late Sri Ram Prasad Bhagat Resident of
Mohalla - Binodpur, Near UCKO Bank, P.S. - Katihar (N), District - Katihar
... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Gyanand Roy, Advocate Ms. Akanksha Malviya, Advocate Ms. Naina Nancy, Advocate
For the O.P. No. 2	:	Mr. Raju Giri, Advocate
For the State	:	Mr. Anil Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 15-09-2025

Heard Mr. Gyanand Roy, learned counsel appearing
on behalf of the petitioner; Mr. Raju Giri, learned counsel for
the opposite party no. 2 and Mr. Anil Kumar, learned A.P.P. for
the State.

2. The petitioner has sought quashing of the entire
criminal proceeding arising out of Katihar (N) Police Station
Case No. 390 of 2023 (G.R. No.- 3067 of 2023), as well as, the
order dated 08.02.2024 passed by the learned Chief Judicial
Magistrate, Katihar by which, cognizance has been taken under
Sections 323, 341, 420, 465, 467, 468, 504 and 506 of the
Indian Penal Code against the petitioner.

3. As per the allegation made in the Complaint Case



No. 618 of 2023, which has been converted into FIR, the petitioner along with other accused persons had entered into the house of the opposite party no. 2 and had put the opposite party no. 2 under confinement to deliver the possession of the land appertaining to Khata No. 103, Old Plot No. 418 measuring total area 6 Katha situated at Ward No. 14, Mauza- Durgapur or to make payment of Rs. 5,00,000/-, for which, the opposite party no. 2 has created forged gift deed.

4. Both the parties submit that the matter relates to the house appertaining to Khata No. 103, Old Plot No. 418 measuring total area 6 Katha situated at Ward No. 14, Mauza- Durgapur and they are claiming their right title over the said piece of land.

5. The petitioner claims his right title over the aforesaid property on the basis of gift deed dated 06.12.1962 executed by one Rukmani Devi, wife of Late Raksha Bhagat in favour of Prathmik Shikshak Sangh and the petitioner claims to be the Secretary of the said Sangh at present.

6. The informant claims that the land in question was put on auction sale and he being the highest bidder, the same was settled in his name.

7. Learned counsel appearing on behalf of the



petitioner submitted that while exercising the power under Section 156(3) of the Code of Criminal Procedure, the duty cast on the learned Magistrate cannot be marginalized in view of the fact that before exercising power under Section 156(3) of the Cr.P.C., on the basis of information received by way of certain application, which has not been affidavited.

8. In this regard, I find that the petitioner and complainant are claiming right title over the property and once the learned Magistrate has come into knowledge of the fact that the matter relates to civil dispute, the complaint in such circumstances mandatorily doesn't required to be looked into or referred for further investigation.

9. Law in this regard is well settled by the Apex Court in the case of ***Paramjeet Batra v. State of Uttarakhand*** reported in ***(2013) 11 SCC 673***, in which, the Apex Court in paragraph no. 12 has held as follows:

"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."

10. 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.***

11. I find that the parties can resolve their dispute outside the Court by way of availing appropriate remedy before the competent Civil Court having jurisdiction.

12. Both the parties are directed to appear before the learned District Court on 26.09.2025 at 10:30 AM.

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

14. 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 action shall be taken against the petitioner in connection with the aforesaid case.

15. In case of failure on the part of the petitioner to appear on 26.09.2025 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioner shall automatically lose its force.



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

17. In case the parties resolve their dispute amicably, then the proceeding is required to be dropped in light of the law laid down by the Apex Court as referred hereinabove.

18. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	17.09.2025
Transmission Date	N/A

