

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46216 of 2023

Arising Out of PS. Case No.-344 Year-2018 Thana- BAHADURGANJ District- Kishanganj

MD. AMIN @ AMEENUDDIN Son of Raisuddin Resident of village -
Kuware Tola (Kairibirpur), Chapwaltoli, P.S.- Kochadhaman, District -
Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Hakimuddin Son of Late Ramjan Ali Resident of village - Baisa Gopalganj
Tola Janigach, P.S.- Bahadurganj, District - Kishanganj.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Amal Kumar Sinha, Advocate
For the Opposite Party/s	:	Mr. Anant Kumar 1, APP
For the O.P. No.2	:	None

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 01-09-2025 Heard Mr. Amal Kumar Sinha, learned counsel
appearing on behalf of the petitioner and Mr. Anant Kumar 1,
learned APP for the State.

2. No one appears on behalf of the O.P. No.2.

3. The present application has been filed for quashing
the order dated 20.07.2021 passed by learned Chief Judicial
Magistrate, Kishanganj in connection with Bahadurganj P.S.
Case No.344 of 2018, by which cognizance of the offences has
been taken under Sections 341, 323, 419, 420, 467, 468, 471,
120(B), 504, 506 and 34 of the Indian Penal Code against the
petitioner.

4. The prosecution story in brief is that the



Informant/Complainant Hakimuddin has filed a complaint case being Complaint Case No. C894/2016 before the Learned C.J.M. Kishanganj on 30.11.2018 against the petitioner and other accused persons under sections 341, 447, 448, 419, 223, 410/34 467, 468, 470, 500, 384, 463, 464, 120 of I.P.C. alleging inter alia that a piece of land appertaining to Mauza- Kuwari, Thana No. 207, R.S. Khata No. 107, Khesra No. 433, 713/0.13 decimal, 389/727/0/47 decimal total area 0.60 decimal recorded in the name of Ramzan Ali and Informant's Uncle namely Mohammadin, Informant's uncle died issueless. As per Muslim law the Informant's father and his sister were the legal heir of Mohammadin, after the death of Informant's father, Informant and daughter and sons of his Fufi are the legal heirs of the aforesaid land and coming in peaceful possession over 0.06 decimal of land. The accused conspired with the petitioner and other accused persons and executed a forged deed no 4697 dated 14.07.2017 whereas accused made himself as a son of Informant's deceased uncle and all the accused persons conspired with each other and executed a forged deed.

5. Learned counsel appearing on behalf of the petitioner submitted that the Chief Judicial Magistrate, Kishanganj, in the most mechanical manner, without applying



his judicial mind that the matter is purely civil in nature and without considering the material available on record, has taken cognizance against the petitioner *vide* order dated 20.07.2021, which cannot sustain in the eye of law. Learned counsel in this regard has relied upon the judgment of 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.

6. In case of ***Usha Chakraborty v. State of West Bengal***, ***(2023) 15 SCC 135***, while quashing the FIR therein and further proceedings based thereon, the Apex Court observed as under: -

‘...the factual position thus would



reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid incident and further that the dispute involved is essentially of civil nature.'

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. Learned APP appearing on behalf of the State submitted that there are ingredients of Sections 420, 504 and 506 of the Indian Penal Code, which call for criminal prosecution against the petitioner calling for no interference with the order taking cognizance against the petitioner.

9. At this stage, learned counsel appearing on behalf of the petitioner informs that the matter can be resolved amicably by way of mediation outside the court.

10. Having perused the rival submissions made on behalf of the parties, as well as, the allegation made in the complaint which later on converted into FIR being Bahadurganj P.S. Case No.344 of 2018 and on perusal of the complaint, the allegation relates to the execution of a forged deed no 4697 dated 14.07.2017 where accused made himself as a son of Informant's deceased uncle and all the accused persons



conspired with each other and executed a forged deed with respect to a piece of land appertaining to Mauza Kuwari, Thana No. 207, R.S. Khata No. 107, Khesra No. 433, 713/0.13 decimal, 389/727/0/47 decimal total area 0.60 decimal, being purely civil in nature and in the light of the observation made by the Apex Court in the case of *Paramjeet Batra (supra)*, *Usha Chakraborty (supra)*, and *S.N. Vijayalakshmi (supra)*, the matter is remitted back to the learned District Court for allowing the party for amicable settlement of their dispute by way of mediation outside the Court.

8. The petitioner and O.P. No.2 are directed to appear before the learned District Court on 15.09.2025 at 10.30 am without fail, so that, the learned District Court can proceed with mediation.

9. Learned District Court is directed to take necessary action 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 action shall be taken against the



petitioner in connection with the Bahadurganj P.S. Case No.344 of 2018.

11. In case of failure on the part of the petitioner to appear on 15.09.2025 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.

12. The petitioner is duty bound to inform the O.P. No.2 at his own level to be present in the Court on 15.09.2025 at 10.30 am.

13. Accordingly, the present application stands disposed of.

(Purnendu Singh, J)

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