

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61078 of 2025

Arising Out of PS. Case No.-869 Year-2024 Thana- RUPASPUR District- Patna

Shiv Kumar Yadav, aged about 52 years (Male), son of Bhola Yadav, Resident of - House No. - 15 G/F, Old Palam Road, Gali No. 1, Bajaj Enclave, Kakrola, Dwarka Mor, Dwarka, P.S - Hari Vihar, District - South Avenue New Delhi, Delhi - 110078

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Shartibha Mishra W/o Dr. Basant Kumar Mishra R/o - Maa Ghar, Road No. 11, Arpana Bank Colony Phase - 2,Ram Jaipal Road, Baily Road, P.S - Rupaspur, District - Patna - 801503

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shailesh Kumar, Advocate Mr. Sanobar Shehnaz, Advocate Mr. Shahbaz Alam, Advocate Mr. I. Ahmed, Advocate
For the State	:	Mr. Ajit Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 20-11-2025

Heard Mr. Shailesh Kumar, learned counsel
appearing on behalf of the petitioner and Mr. Ajit Kumar,
learned APP for the State.

2. The petitioner has preferred the application under Section 528 BNSS for quashing of the FIR bearing Rupaspur P.S. Case No. 869 of 2024 registered under Sections 319(2), 318(4) of the BNS and Section 138 of the Negotiable Instrument Act.

3. As per the allegation made in the FIR, the informant had entered into an agreement with the petitioner and



his wife Sarswati Devi to purchase a flat and had Rs. 30,000/- as token money and rupees five lacs as advance but the petitioner had sold the flat to someone else and did not return back the money to the informant. The petitioner had given possession of certain plots to the informant for Rs. 43 Lakhs but later on sold the said Plots to someone else on higher price. Thereafter, the petitioner had entered into an agreement to give Rs. 54 Lakhs to the informant but had given only Rs. 8 Lakhs to the informant in his account. The petitioner had given seven cheques amounting to Rs. 35 Lakhs to the informant, out of which, one cheque was cleared but remaining six cheques were expired as the petitioner was in the jail and when he was released on bail, he had again given Rs. 50 thousand from account transfer and five cheques of Rs. 5 lakhs each and one cheque of Rs. 3 Lakhs 50 thousand, out of which, only one cheque was cleared and remaining cheques were bounced. Aggrieved by the said act of the petitioner, the informant has lodged FIR against the petitioner and other co-accused under Sections 319(2), 318(4) of the B.N.S. and Section 138 of Negotiable Instrument Act.

4. Learned counsel appearing on behalf of the petitioner at the outset submitted that the matter is purely civil in nature relating to certain transaction of money between the



petitioner and O.P. No. 2 and to buy peace of mind, the petitioner wants to settle the dispute amicably outside the Court. Learned counsel, in this regard, has relied upon the law laid down by the Apex Court in the case of ***Kunti & Anr. vs. State of Uttar Pradesh & Anr.*** reported in ***(2023) 6 SCC 109*** and ***Vijay Kumar Ghai & Ors. vs. State of West Bengal & Ors.*** reported in ***(2022) 7 SCC 124***.

5. Learned APP appearing on behalf of the State submitted that a chance be given to the parties for amicable settlement outside the court.

6. The petitioner's counsel on instruction submitted that the petitioner has agreed to appear before the learned District Court on or before 17.12.2025.

7. Heard the parties

8. Considering the nature of allegation made in the F.I.R., which has a civil flavor, which *prima facie* don't disclose an overwhelming element of criminality. In the absence of the element of criminality, if both civil and criminal cases are allowed to continue, it will definitely amount to abuse of the process of the Court.

9. In this regard, I find it apt to refer the observation made by the Apex Court in para-12 in case of ***Paramjeet Batra***



v. *State of Uttarakhand*, (2013) 11 SCC 673, which is reproduced hereinafter::

"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. 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.’

11. 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.

12. The dispute between the parties is purely civil in nature and the petitioner has willingly desired to appear before



the learned District Court on or before 17.12.2025, so that the matter can be referred to the District Mediation Centre.

13. Learned District Court is directed is directed to take necessary steps to issue notices to the respective parties and upon their appearance, refer the matter before the learned Mediator of the District Mediation Center by fixing a date for appearance of the parties.

14. Learned Mediator of the District Mediation Center concerned, upon appearance of the parties, 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, the parties resolve their dispute amicably or arrive at a mutual settlement, then the proceeding is required to be dropped in light of the law laid down by the Apex Court as referred hereinabove.

16. In case of failure on the part of the petitioner to appear on or before 17.12.2025 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.



17. In case, it is deliberate on the part of the petitioner and he fails to reconcile, then in that case, the learned District Court shall proceed with the trial. In case, it is deliberate on the part of the opposite party no.2 to reconcile, then in that case, the interim protection granted to the petitioner shall continue and the trial shall proceed in accordance with law.

18. In case, it is found that the O.P. No. 2 don't appear on the date fixed by the learned District Court then in that case, the Senior Superintendent of Police, Patna is directed to produce opposite party no. 2 on the date fixed by the learned District Court so that the matter can be resolved amicably.

19. Accordingly, the quashing application stands disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.11.2025
Transmission Date	24.11.2025

