

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66777 of 2025

Arising Out of PS. Case No.-233 Year-2024 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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Shamsul Haque S/o- Late Sheik Fida, Resident of Kandhliya PS- Lauria
District- West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ashraful Azam D/o- Late Md. Kasim, R/o Moh- Jogia Ps- Ram Nagar Dist-
West Champaran, Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Md Fahar Imran, Advocate

For the Opposite Party/s : Mr. Ajit Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 19-11-2025

Heard Mr. Md Fahar Imran, 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 order dated 03.06.2024
passed in connection with complaint Case No.233 of 2024 by
the learned Judicial Magistrate, 1st Class, West Champaran
whereby he has issued summons against the petitioner for the
offence under Section 420 of the Indian Penal Code.

3. As per the allegation made in the FIR, the
petitioner, who is the father-in-law of O.P. No. 2, received a sum
of Rs.6,16,000/- from O.P. No. 2 for the purpose of purchasing a



piece of land in the name of the petitioner, however, he neither purchased the land nor refunded the said amount.

4. Learned counsel appearing on behalf of the petitioner at the outset submitted that the matter is purely civil in nature and to buy peace of mind, petitioner wants to settle the dispute amicably outside the Court.

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 at 10:30 A.M. on 17.12.2025.

7. Heard the parties

8. Considering the nature of allegation made in the F.I.R. which has a civil flavor and the same *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 17.12.2025 at 10:30 AM, so that



the matter can be referred to the District Mediation Centre.

13. Learned District Court is directed to take necessary steps to refer the matter before the learned Mediator of the District Mediation Center after summoning O.P. No.2 by fixing a date for appearance.

14. Learned Mediator of the District Mediation Center concerned upon appearance of the parties on the fixed date 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 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. Accordingly, the order taking cognizance is modified to the above extent.

19. With aforesaid direction and observation, the quashing application stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.11.2025
Transmission Date	26.11.2025

