

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1319 of 2019

Arising Out of PS. Case No.-288 Year-2019 Thana- PURNIA COMPLAINT CASE District-
Purnia

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Chandan Kumar Singh Son of Late Kamleshwari Prasad Singh @
Kamleshwari Singh Resident of Mohalla - Shivpuri behind Bal Bharti School,
Purnea, P.S.- Maranga, District- Purnea.

... .. Petitioner

Versus

1. The State of Bihar
2. Smt. Shila Devi Wife of Niranjana Kumar Singh Resident of Mohalla -
Shivpuri behind Bal Bharti School, Purnea, P.S.- Maranga, District- Purnea
3. Niranjana Kumar Singh Son of Dharendra Kumar Singh Resident of Mohalla
- Shivpuri behind Bal Bharti School, Purnea, P.S.- Maranga, District- Purnea
4. Biku Kumar Son of Niranjana Kumar Singh Resident of Mohalla - Shivpuri
behind Bal Bharti School, Purnea, P.S.- Maranga, District- Purnea
5. Chhotu Son of Niranjana Kumar Singh Resident of Mohalla - Shivpuri
behind Bal Bharti School, Purnea, P.S.- Maranga, District- Purnea

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Jitendra Prasad Singh, Sr. Advocate Mr. Arvind Kr. Pandey, Advocate Mr. Rajeev Kumar, Advocate Mr. Varun Krishna Singh, Advocate
For R. Nos. 2-5	:	Mr. Diwakar Prasad Singh, Advocate Mr. Vaibhav Vishal, Advocate
For the State	:	Mr. Upendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 04-04-2025

The present Criminal Revision petition has been preferred against the impugned order dated 16.09.2019, passed by learned Judicial Magistrate, Ist Class, Purnia in C.A No. 288 of 2019, corresponding to C.I.S No. 288 of 2019, whereby learned Magistrate has dismissed the criminal complaint under Section 203 Cr.PC, finding no *prima facie* case against the



accused.

2. As per the prosecution case, as emerging from the complaint, filed by the petitioner against four accused persons, who are Opposite Party Nos. 2 to 5 herein, both the complainant and the accused side have purchased the land from the same land owner and their land is adjoining to each other. As per the case of the complainant, the accused persons have purchased the land, subject to the condition that he will have 10 feet wide *raasta* between the two lands. However, the accused persons started encroaching the land of the *raasta* by encroaching upon it and on protest, altercation took place, in which the complainant and his family members were assaulted by the accused persons and even his mobile was thrown on the ground, resulting into the mobile getting broken up.

3. After inquiry under Section 200 Cr.P.C., learned Magistrate came to the conclusion that, as per the complaint and averment made during the inquiry, the complainant and the accused sides have civil dispute in regard to the land and by this criminal complaint, the complainant is giving criminal colour to their civil dispute and on this ground, learned Magistrate had dismissed the complaint.

4. I heard learned counsel for the petitioner, learned



APP for the State and learned counsel for the Opposite Party Nos. 2 to 5.

5. Learned counsel for the petitioner submits that learned Magistrate has passed an erroneous order, because as per the complaint, a *prima facie* case is made out under Sections 147, 323, 352, 379, 504 and 506 of the IPC against the accused persons and hence, the impugned order should be set aside and learned Magistrate should be directed to make further enquiry and take cognizance.

6. However, learned APP for the State and learned counsel for the Opposite Party Nos. 2 to 5 vehemently submit that basically, there is civil dispute between the complainant and the accused persons and civil suits are also going on between them and the complainant has just given criminal colour to a civil dispute to harass the accused persons.

7. They further submit that as per the averment made in the complaint, complainant has not exhausted the remedy for filing police case. There is only averment that their complaint given to the police station was not accepted and case was not registered. But, thereafter there is no statement that he has sent a copy of his written report to the Superintendent of Police. As such, prerequisites for filing criminal complaint are not fulfilled.



8. I considered the submissions advanced by the parties and perused the materials available on record.

9. I find that undisputedly, there is civil dispute between the parties in regard to the land and even Civil Suit is going on between them in the Civil Court.

10. I further find that the complainant before filing the complaint has not sent a copy of the written report to the Superintendent of Police, upon refusal of the SHO of the concerned police station to lodge FIR. Hence, prerequisites for filing the complaint are not fulfilled. Moreover, it also appears that complainant has filed this complaint *mala fide* giving criminal colour to the civil dispute with an intent to harass the accused persons.

11. Hence, in view of *Priyanka Srivastava Vs. State of UP*, [(2015) 6 SCC 287] and *State of Haryana & Ors. Vs. Bhajan Lal & Anr.* [1992 Supp (1) SCC 335], there is no illegality or infirmity in the impugned order.

12. Accordingly, the present Criminal Revision petition is dismissed for want of any merit.

(Jitendra Kumar, J.)

Shahnawaz/shoaib

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.04.2025



Transmission Date	07.04.2025
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