

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1120 of 2019

Arising Out of PS. Case No.-3727 Year-2016 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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1. Kishori Devi W/o Rakesh Ranjan Singh r/v- Galimapur, P. S.- Taraiya, District- Saran
 2. Rakesh Ranjan Singh S/o Rup Narayan Singh r/v- Galimapur, P. S.- Taraiya, District- Saran
 3. Buchan Kumar Singh S/o Ramaji Singh r/v- Neuri, P.S.- Barauli, District- Gopalganj.
 4. Amrita Devi W/o Ajay Kumar Singh r/v- Neuri, P.S.- Barauli, District- Gopalganj.

... .. Petitioner/s

Versus

1. State of Bihar
2. Dhrup Narayan Singh S/o Late Kapildeo Singh Resident of Village- Neuri, P.S.- Barauli, District- Gopalganj..

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Harendra Prasad, Adv
For the Opposite Party/s : Mr. Navin Kr. Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 24-07-2026

Heard the parties.

2. The present quashing petition has been preferred to quash the order dated 22.11.2017 passed in TR No.2525/2017 arising out of Complaint Case No. 3727/2016 passed by learned CJM, Gopalganj where cognizance was taken for the offences punishable under Sections 419, 323 and 504 of the Indian Penal Code against the petitioners.

3. Despite repeated calls Opposite Party No. 2, fails to join the present proceedings.

4. The prosecution case, as stated in the complaint petition, is that Mahanth Rai had four sons, namely Daroga Singh,



Dharmnath Singh, Sipahi Singh and Kapildeo Singh. Kapildeo Singh died leaving behind two sons, Uday Narayan Singh and Dhup Narayan Singh, and two daughters, Radha Devi and Rema Devi, while the other three sons died issueless. Dhup Narayan Singh had two sons, Krishna Pratap Singh and Chandan Kumar Singh, and three daughters, Kishori Devi, Rekha Kumari and Simple Kumari, of whom Kishori Devi was married to accused no. 5. It is alleged that accused no. 5, in connivance with others, falsely claimed Rakesh Ranjan Singh and his wife to be the son-in-law and daughter of Uday Narayan Singh and started executing sale deeds in respect of valuable ancestral lands without partition, compelling the complainant to institute Partition Suit No. 309/2013 before the Court of the learned Sub-Judge-XI, Gopalganj. Despite having knowledge of the pending partition suit, petitioner no(s). 1 and 2 allegedly executed a sale deed by falsely representing petitioner no. 1 as the daughter of Uday Narayan Singh, whereas she was in fact the daughter of the complainant. On 26.04.2016, when the complainant came to know about the alleged forgery and demanded return of the forged documents from petitioner no(s). 1 and 2, the accused persons allegedly assaulted him and forcibly snatched Rs.10,000/- and his mobile phone.

5. It is submitted by learned counsel appearing for the petitioners that the ingredients for constituting offences under Sections 419, 323 and 504 of the IPC is not made out prima-facie



and, therefore, cognizance as taken against the petitioners in the background of land dispute is appearing bad in the eyes of law. It is submitted that for the land dispute complainant preferred a Title Suit No. 309/2013 prior to lodging of this case, pending before the Court of learned Sub Judge-I, Gopalganj. It is also submitted that the accused/petitioners are coparcener and party of the said suit and to create unnecessary pressure or to settle personal vengeance out of oblique motive the present criminal case was lodged, which is completely un-occasioned and unwarranted and, therefore, cognizance order is fit to be quashed/set aside.

6. While travelling over the argument learned counsel submitted that cognizance should not be taken in such a mechanical manner. In support of his submissions learned counsel relied upon the reports of Hon'ble Supreme Court as available through ***State of Haryana and Others Vs. Bhajan Lal and Others reported in 1992 Supp (1) Supreme Court Cases 335 and Rikhab Birani and Another Vs. State of Uttar Pradesh and Another, [2025 SCC OnLine SC 823].***

7. It would be apposite to reproduce the paragraph no. 102 of the ***Bhajan Lal Case (supra)*** which reads as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it



may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first informant report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent persons can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

8. It would also be apposite to reproduce the paragraph no(s). 19 and 20 of the ***Rikhab Birani Case (supra)*** which reads as under:

“19. It is the duty and obligation of the court to exercise a great deal of caution in issuing process, particularly when the matter is essentially of civil nature. 13 The prevalent impression that civil remedies, being time-consuming, do not adequately protect the interests of creditors or lenders should be discouraged and rejected as criminal procedure cannot be used to apply pressure. 14 Failure to do so results in the breakdown of the rule of law and amounts to misuse and abuse of the legal process.



*20. In yet another case, again arising from criminal proceedings initiated in the State of Uttar Pradesh this Court was constrained to note recurring cases being encountered wherein parties repeatedly attempted to invoke the jurisdiction of criminal courts by filing vexatious complaints, camouflaging allegations that are ex facie outrageous or are pure civil claims. These attempts must not be entertained and should be dismissed at the threshold. Reference was made to a judgment of this Court in *Thermax Limited v. K.M. Johnny* which held that courts should be watchful of the difference between civil and criminal wrongs, though there can be situations where the allegation may constitute both civil and criminal wrongs. Further, there has to be a conscious application of mind on these aspects by the Magistrate, as a summoning order has grave consequences of setting criminal proceedings in motion. Though the Magistrate is not required to record detailed reasons, there should be adequate evidence on record to set criminal proceedings into motion. The Magistrate should carefully scrutinize the evidence on record and may even put questions to the complainant/investigating officer etc. to elicit answers to find out the truth about the allegations. The summoning order has to be passed when the complaint or chargesheet discloses an offence and when there is material that supports and constitutes essential ingredients of the offence. The summoning order should not be passed lightly or as a matter of course."*

9. In view of aforesaid factual and legal submissions and by taking note of fact as the effective disputes between the parties, prima-facie appears land dispute being coparcener for which a title suit is already pending between the parties since 2013 i.e., Title Suit No.309/2013, where petitioners are coparcener, accordingly this court is convinced that present criminal case was filed out of oblique motive to settle the land dispute by lodging this criminal prosecution, which is prima-facie un-occasioned and unwarranted. Accordingly, by taking note of legal ratio as mentioned in **Bhajan Lal Case (supra) & Rikhab Birani Case (supra)**, impugned order of cognizance dated 22.11.2017 with all its consequential proceedings, *qua*, all above named petitioners arising thereof as passed in Complaint Case No. 3727 of 2016, pending before learned CJM,



Gopalganj is hereby quashed and set aside.

10. Hence, this application stands allowed.

11. TCR (Trial Court Records), if any, be returned to the learned Trial Court alongwith the copy of this judgment.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	NAFR
CAV DATE	NA
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