

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45769 of 2023

Arising out of PS. Case No.-603 Year-2023 Thana- COMPLAINT CASE District- Jamui

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1. Rakesh Kumar @ Pintu Singh, Son of Late Bachchu Singh, Resident of Village- Tihiya, Ps- Khaira, Distt- Jamui.
 2. Mantu Singh, Son of Late Bachchu Singh, Resident of Village- Tihiya, Ps- Khaira, Distt- Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Udyanand Pandey, Son of Vidyadhar Pandey Resident of Village- Tihiya, Ps- Khaira, Distt- Jamui.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Saket Gupta, Advocate
For the State	:	Mr. Harendra Prasad, APP
For the OP No. 2	:	Mr. Pankanj Kumar Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE ANSUL

ORAL JUDGMENT

Date : 01-05-2026

Heard learned counsel for the petitioners, learned counsel for the Informant and learned Additional Public Prosecutor for the State.

2. Petitioners seek quashing of the entire criminal prosecution arising out of Complaint Case No. 603(C) of 2023 registered for the offences under Sections 447, 323, 504, 354, 387 and 452 of the Indian Penal Code pending before the concerned Court, Jamui.



3. Learned counsel for the informant at the outset submits that the cognizance has not been taken thus the present case is not maintainable.

4. The case of the complainant is that on the date of the occurrence the police officials entered into his house, assaulted him and got boundary wall erected on the land. The details of land is Mauza Tihiya, Khata No. 26, Khesra 742 and area 4 decimal which was recorded in the name of his grandfather. Petitioners had also filed Cr. Mis. Case Nos. 17945 of 2023 and 18733 of 2023 in which *vide* order dated 18.04.2023 the direction was given that if the petitioner wants to erect the boundary wall, the police will facilitate the erection of the boundary wall and if any interference is caused by any person the police will take strict action against them.

5. Learned counsel for the petitioner submits that in view of the order passed in Cr. Misc. Nos. 17945 of 2023 and 18733 of 2023 this prosecution is completely *mala fide*. Moreover, there is absolutely no chance that this prosecution could be taken to any logical conclusion which could prejudice the accused persons.



6. Learned Counsel for the informant as well as learned Additional Public Prosecutor for the State has vehemently opposed the quashing of the Complaint Case No. 603(C) of 2023.

7. Hon'ble High Court of Gujarat in the case of **Nayak and others Versus Rahul Kanubhai Ashar** reported in **195 (4) Crimes 614 (Guj.)** has held that:

“when the complaint does not contain any germ of offence and accordingly when there is not even the bleakest of the possibility of conviction, merely because the Court has inquiry under Section 202 of the Code and not issued any process against the petitioner-accused, that by itself cannot be permitted to obscure the judicial vision of this Court to quash the impugned order passed by the learned Magistrate. This Court cannot be party to the mechanical orders passed under Section 202 of the Code with the consequence of impending fear of totally hopeless criminal cases over the head of the accused persons who in the instant case are the responsible bank officers who might have bona fidely exercised their duty. Under the circumstances, when the complaint does not disclose any prima facie offence, the learned Magistrate having committed a patent and obvious error in passing the order under Section 202 of the Code, the said order requires to be quashed, as such an inquiry would be nothing but a fruitless exercise or waste of public time as well as money, which cannot be allowed under any circumstance.”

8. This Court has also reiterated the proposition laid down in the **Nayak** case and quashed the complaint at the inquiry stage in the case of **Rupa and Company Limited and others**



Versus State of Bihar and others (Cr. Misc. No. 5347 of 2009)

decided on 03.01.2011.

9. In such view of the matter, the present prosecution is nothing but an abuse of the process of the Court in view of Hon'ble Supreme Court decision rendered in the case of *State of Haryana vs. Chaudhary Bhajan Lal and Ors.* reported in *AIR 1992 SC 604*. Moreover, in the case of *Indian Oil Corporation Vs. NEPC India Ltd. and Ors* reported in *(2006) 6 SCC 734* and in the case of *Md. Ibrahim Vs. State of Bihar* reported in *(2009) 8 SCC 751*. The courts have held that criminal prosecution may not be allowed to be misused in cases which are predominantly civil in nature. The present case fits the bill. The relevant paragraph 13 of the case of *Indian Oil Corporation* (supra) reads as under:-

“13. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged. In G. Sagar Suri v. State of U.P. [(2000) 2 SCC 636 : 2000 SCC (Cri) 513] this Court observed: (SCC p. 643, para 8)



“It is to be seen if a matter, which is essentially of a civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which the High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice.”

10. The relevant paragraph 8 of the case of **Md.**

Ibrahim (*supra*) reads as under:-

"8. This Court has time and again drawn attention to the growing tendency of the complainants attempting to give the cloak of a criminal offence to matters which are essentially and purely civil in nature, obviously either to apply pressure on the accused, or out of enmity towards the accused, or to subject the accused to harassment. Criminal courts should ensure that proceedings before it are not used for settling scores or to pressurise parties to settle civil disputes. But at the same time, it should be noted that several disputes of a civil nature may also contain the ingredients of criminal offences and if so, will have to be tried as criminal offences, even if they also amount to civil disputes. (See G. Sagar Suri v. State of U.P. [(2000) 2 SCC 636 : 2000 SCC (Cri) 513] and Indian Oil Corpn. v. NEPC India Ltd. [(2006) 6 SCC 736 : (2006) 3 SCC (Cri) 188]) Let us examine the matter keeping the said principles in mind."

11. Resultantly, the entire proceeding arising out of Complaint Case No. 603(C) of 2023 registered for the offences



under Sections 447, 323, 504, 354, 387 and 452 of the Indian Penal Code pending before the concerned Court, Jamui is quashed against all the accused persons.

12. Accordingly, the present petition is allowed.

(Ansul, J)

Vikash/-

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

