IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.48808 of 2016

CNR No. BRHC010864052016

Arising Out of PS. Case No.-510 Year-2016 Thana- BHABHU(KAIMUR) COMPLAIN C District- Kaimur (Bhabua)

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Raghvendra Pratap Singh, Son of Late Rajmani Singh, Resident of Village- Bhagwanpur, P.S.- Bhagwanpur, District- Kaimur.

... ... Petitioner/s

Versus

1. The State of Bihar.
2. Anjani Kumar Singh, Son of Late Dashrathi Sharan Singh, Resident of Village- Bhagwanpur, P.S.- Bhagwanpur, District- Kaimur.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Adv.
		Mr. Prakash Kumar, Adv.
For the O.P. No. 2	:	Mr. Alok Kumar, Sr. Adv.
		Mr. Pankaj Kumar Singh, Adv.
For the State	:	Ms. Pushpa Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE RANA VIKRAM SINGH

C.A.V. JUDGMENT

Date : 27-10-2026

The present application under Section 482 of the Code of Criminal Procedure *(in short the **"Cr.P.C."**)* has been filed for quashing the order dated 04.07.2016 passed by the learned Sub-Divisional Judicial Magistrate, Bhabhua, Kaimur, in Complaint Case No. 510 (C) of 2016, whereby the learned Magistrate,

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upon consideration of the complaint, the statement of the complainant on solemn affirmation and the statement of the enquiry witnesses, has found a *prima facie* case against the petitioner for the offences punishable under Sections 465, 468 and 471 of the Indian Penal Code (in short the ***"I.P.C."***) and has ordered issuance of process for his appearance.

2. The prosecution case, as disclosed from the complaint petition, is that a dispute exists between the parties in respect of land appertaining to Mauza Bhagwanpur, Thana No. 419, including Plot No. 826 of Khata No. 23, measuring approximately 1.54 acres. The parties have been litigating in respect of their respective claims over the said property before the revenue and consolidation authorities.

It is alleged that the petitioner, in support of his claim over the disputed land, relied upon various documents and records relating to partition, mutation and consolidation proceedings. Amongst the documents relied upon is a Memorandum of Partition dated 05.12.1992, which, according to the petitioner, records a family partition in respect of the property in question. The petition also refers to subsequent mutation proceedings concerning the disputed land.

Mutation proceedings were initiated in respect of the disputed property and orders were passed by the competent

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revenue authorities. The complaint petition refers, *inter alia*, to Mutation Case No. 298/1992-93 and subsequent mutation revision proceedings, including Mutation Revision Case Nos. 12/2012-13 and 13/2012-13 and documents were filed before the concerned revenue authorities in the course of those proceedings.

The specific allegation forming the basis of the present criminal proceeding, however, relates to a document concerning permission for transfer of the disputed land during the consolidation proceedings. A document purporting to be a genuine official document was produced and relied upon, although the same was allegedly forged/manipulated. It refers particularly to a letter bearing No. 346 dated 19.10.2011, stated to relate to the requirement of permission for transfer of land in Village Bhagwanpur, District Kaimur. A true photocopy of the said letter has been annexed with the petition as Annexure-6. The said document, as alleged, had been manipulated/forged and certain contents had been inserted therein so as to create an impression that the requisite permission for transfer of the land had been obtained from the competent consolidation authority. The complainant alleges that the document was thereafter used for obtaining an order in favour of the petitioner.

The complainant alleges that the alleged forgery came

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to the knowledge of the complainant subsequently, when an information was obtained from the office of the Deputy Director, Consolidation, Rohtas, concerning the relevant permission for transfer of the land. The complainant's case is that permission for transfer was required from the competent Consolidation Officer and that the disputed document was relied upon notwithstanding the absence of such genuine permission.

The complainant accordingly alleges that the petitioner, with knowledge of the alleged falsity of the document, used the same in the proceedings before the competent authority and thereby secured an advantage in respect of the disputed land.

3. On the basis of these allegations, Complaint Case No. 510(C) of 2016 was instituted before the learned Sub-Divisional Judicial Magistrate, Bhabhua, Kaimur, on 30.05.2016 under Sections 467, 468, 471 and 420 of the I.P.C. The complainant was examined on solemn affirmation on 09.06.2016, and an enquiry witness, namely Ranjit Kumar Singh, was also examined. Thereafter, upon consideration of the materials available during enquiry, the learned Magistrate, finding a *prima facie* case for the offences punishable under Sections 465, 468 and 471 of the I.P.C., *vide* order dated 04.07.2016, directed issuance of process against the petitioner.

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4. Learned Senior counsel Mr. Yogesh Chandra Verma appearing on behalf of the petitioner submits that the impugned order dated 04.07.2016, passed by the learned Sub-Divisional Judicial Magistrate, Bhabhua, Kaimur, in Complaint Case No. 510(C) of 2016, is wholly unsustainable in the facts and circumstances of the case and is liable to be quashed.

4.1. He submits that the entire dispute between the parties essentially relates to title, possession, partition and mutation of the land situated at Mauza Bhagwanpur, Thana No. 419, including Plot No. 826 of Khata No. 23, measuring approximately 1.54 acres. The dispute is, therefore, predominantly a civil/revenue dispute, and the complainant has deliberately given a criminal colour to the same in order to harass the petitioner and pressurize him in the pending land proceedings.

4.2. Learned counsel highlights that the property in question was ancestral/family property and a family partition had already taken place. A memorandum of partition dated 05.12.1992 was prepared and executed amongst the family members. Thereafter, proceedings for mutation and other revenue formalities were undertaken in respect of the respective shares of the parties. The petitioner has relied upon the said partition and the subsequent revenue proceedings to

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demonstrate that his claim over the property is based upon pre-existing rights and is not the result of any fraudulent transaction.

4.3. He points out that the complainant is attempting to dispute the petitioner's claim over the land by raising allegations concerning a document said to be related to permission for transfer of the property during consolidation proceedings. The petitioner has falsely been accused of forging or manipulating the said document, although the petitioner was neither the author nor the custodian of the alleged document. It is thus contended that there is no material to show that the petitioner has himself forged or fabricated the document.

4.4. Referring to the allegations, he submits that the allegations under Sections 465 and 468 of the I.P.C. cannot be sustained merely on the assertion that a document relied upon in a revenue proceeding was forged. There must be material connecting the petitioner with the alleged making or alteration of the document. In the absence of any such material, the continuation of the criminal proceeding against the petitioner would amount to an abuse of the process of law.

4.5. With regard to the allegation under Section 471 I.P.C., learned counsel submits that the petitioner cannot be prosecuted merely because the disputed document was referred to or relied upon in a revenue proceeding. The prosecution must

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have material to *prima facie* establish that the petitioner used the document as genuine knowing or having reason to believe it to be forged. However, in the instant case, no such material is available against the petitioner.

4.6. Learned counsel argues that the petitioner's case is supported by the proceedings before the revenue and consolidation authorities. It is pointed out that permission for transfer of the land was required from the competent Consolidation authority during the relevant period, and the petitioner had obtained information under the Right to Information Act, 2005, from the concerned authority regarding the requirement of such permission. The petitioner relies upon the said information to demonstrate that the question regarding permission was a matter arising out of the consolidation/revenue proceedings and cannot, by itself, furnish the foundation for the criminal allegations made against him.

4.7. Fortifying his argument, learned Senior Advocate avers that several proceedings had already taken place between the parties in relation to the same property, including mutation and revision proceedings before the revenue authorities. The petition refers to the mutation revision proceedings and other orders concerning the disputed property. The present complaint is, a further attempt by the complainant to pressurize the

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petitioner in the property dispute and to obtain indirectly, through criminal proceedings, an adjudication of questions, which are essentially civil and revenue in nature.

4.8. Learned counsel emphatically submits that the complainant had earlier also, initiated criminal proceedings against the petitioner in relation to the same property by lodging Bhagwanpur P.S. Case No. 88 of 2014, in which proceedings had been initiated under various provisions of the I.PC. It is contended that the present complaint is another proceeding arising out of the continuing property dispute and is, therefore, indicative of the complainant's intention to harass the petitioner and the learned Magistrate has failed to appreciate properly the nature of the dispute and the materials brought on record. The order issuing process has been passed without there being sufficient material connecting the petitioner with the alleged forgery or manipulation of the document.

4.9. Thus, he submits that the essential ingredients of the offences alleged are not disclosed against the petitioner even if the allegations contained in the complaint are taken at its face value. The continuation of the criminal proceeding, in the circumstances, would cause serious prejudice to the petitioner and would amount to misuse of the criminal process for settling a private property dispute.

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4.10. At last he argues that the inherent jurisdiction of this Court under Section 482 Cr.P.C. is meant to prevent abuse of the process of the Court and to secure the ends of justice. Since the allegations arise out of an existing land/revenue dispute, the petitioner has been implicated without any legally sustainable material connecting him with the alleged forgery, and the basic ingredients of the offences are not made out, hence the impugned order dated 04.07.2016 and the consequential criminal proceeding in Complaint Case No. 510(C) of 2016 deserve to be quashed.

5. Learned Senior counsel Mr. Alok Kumar, appearing on behalf of Opposite Party No. 2/Complainant submits that the present application is devoid of merit and is liable to be dismissed.

5.1. He emphatically submitted that the complainant had preferred Mutation Appeal No. 66/11-12 before the Deputy Collector Land Reforms against the order dated 17.12.1992 passed in Mutation Case No. 298/92-93, which was allowed in favour of the complainant *vide* order dated 18.05.2012. Thereafter, the petitioner preferred Mutation Revision Case No. 12/2012-13 against the said order. In the said Mutation Revision Case No. 12/2012-13, the petitioner relied upon Memo No. 346 dated 19.10.2011, purportedly issued by the Deputy Director,

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Consolidation, Bhabhua. It is specifically alleged that the said memo had been interpolated and forged, particularly in paragraph 1, by adding therein that permission for transfer of the land was required before July, 1992. The said manipulated and forged memo was thereafter filed in the mutation revision proceeding.

5.2. He submits that the Mutation Revision Case No. 12/2012-13 was allowed *vide* order dated 05.09.2012, after taking into consideration the said manipulated and forged memo. The complainant thereafter challenged the said order before the appropriate forum and during course of the subsequent proceedings, the complainant came to know about the manipulation and forgery with respect to Memo No. 346 dated 19.10.2011. Then the opposite party No.2/Complainant obtained information under the Right to Information Act on 06.05.2016, along with a copy of Memo No. 346 dated 19.10.2011, and from the information so received it transpired that the said memo had been manipulated and interpolated. Immediately thereafter, the complainant approached the criminal Court and filed Complaint Case No. 510(C) of 2016 on 30.05.2016.

5.3. With respect to maintainability of the present complaint case, learned counsel submits that the contention

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regarding the bar contained in Section 195(1)(b) Cr.P.C. is wholly misconceived. The alleged interpolation and forgery in Memo No. 346 dated 19.10.2011 had already been committed before the document was produced or filed before the Court/revenue authority. Therefore, the offence of forgery was not committed in respect of a document after it had been produced or given in evidence in a proceeding before the Court, so the bar under Section 195(1)(b) Cr.P.C. would not operate in the facts of the present case and the complaint instituted by Opposite Party No. 2 is maintainable.

5.4. Learned counsel for opposite party No. 2/the complainant avers that the allegations of interpolation and forgery of Memo No. 346 dated 19.10.2011, its subsequent use in the mutation revision proceeding and the material brought on record by the complainant, constitute sufficient grounds for continuation of the criminal proceeding. The disputed questions regarding the genuineness of the memo and the role of the petitioner are matters to be adjudicated on the basis of evidence and cannot be examined in detail in the present proceeding under Section 482 Cr.P.C.

5.5. It is, thus, vehemently argued that the impugned order passed by the learned Magistrate does not suffer from any illegality or infirmity, warranting interference by this Court. The

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present application filed by the petitioner under Section 482 Cr.P.C., accordingly, deserves to be dismissed.

6. Learned Additional Public Prosecutor, Ms. Pushpa Sinha, appearing for the State opposes the application and submits that the learned Magistrate, after following the procedure prescribed under law and upon consideration of the materials available before him, has found sufficient ground for proceeding against the petitioner. She urged that at the stage of consideration of an application under Section 482 Cr.P.C., this Court is not required to conduct a mini-trial or appreciate the defence of the petitioner. The allegations made in the complaint and the materials collected during the enquiry are required to be considered for determining whether a *prima facie* case is disclosed and moreover defence of the accused is to be seen during trial and, accordingly, prays for dismissal of this application.

7. Heard learned Senior Counsels appearing on behalf of the respective parties as well as learned Additional Public Prosecutor for the State and perused the documents placed on records.

8. It appears that primary and material dispute between the petitioner and the complainant/opposite party No. 2 is not confined to rival claims over the land, but has encompassed the

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allegation to the effect that the document dated 19.10.2011 as contained in Letter No. 346 has been forged by the petitioner, whereas the petitioner claims that he has got the copy of the said letter obtained by an advocate, under R.T.I., from the concerned Department. Similarly, the complainant/opposite party No. 2 also claims that he has also obtained the copy of the same letter, under R.T.I., and alleging interpolation in the aforesaid letter, the complainant/opposite party No. 2 has lodged the complaint case on 28.05.2016, almost after four years of the order dated 15.09.2012 passed by the Additional Collector, Kaimur at Bhabhua in Mutation Revision Case Nos. 12/2012-13 and 13/2012-13.

9. In order to properly appreciate the nature of dispute between the parties, it would be germane to consider the factual background to examine and verify as to whether any criminal offence, as alleged by the complainant/opposite party No. 2, has been committed by the petitioner or not?

10. Background facts, concerning the issue, are discussed hereinbelow:-

(i) Petitioner and the complainant/opposite party No. 2 are agnates, drawing their descendance from common ancestor, namely, late Kamta Prasad Singh;

(ii) Late Kamta Prasad Singh

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has three sons, namely, Dashrathi Sharan Singh, Raj Mani Singh and Deo Muni Singh;

(iii) Anjani Kumar Singh (the complainant/opposite party No.2 herein) is the son of late Dashrathi Sharan Singh, whereas the petitioner, namely, Raghvendra Pratap Singh, is the son of Raj Mani Singh and the third son of late Kamta Prasad Singh has two sons, namely, Dr. Abhijit Singh and Vishwajit Pratap Singh;

(iv) The land in dispute is having an area of 1.54 acres under Plot No. 826, Khata No. 23, in Mauja/Village-Bhagwanpur, Thana No. 419, Anchal-Bhagawanpur, District-Kaimur;

(v) In the year 1981, the partition of joint family property took between late Kamta Prasad Singh and his three sons, namely, Dashrathi Sharan Singh, Raj Mani Singh and Deo Muni Singh. Accordingly, a comprised decree was prepared vide Partition Suit No. 1981 of 1985 and mutation was done with respect to the respective shares of all the four shareholders;

(vi) On 05.12.1992, another memorandum of partition was prepared, containing Schedule-A, B and C, in the name of Raghvendra Pratap Singh (the petitioner herein), Dashrathi Sharan Singh and Deo Muni Singh, in which, late Kamta Prasad Singh has relinquished his entire

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estate in favour of the aforesaid persons;

(vii) Accordingly, 51.1/3 decimals of land out of the disputed Plot No. 826 was distributed to all shareholders;

(viii) Thereafter, a mutation case vide Mutation Case No. 298/1992-1993 was registered, wherein vide order dated 17.12.1992, passed by the Circle Officer, Bhagwanpur, separate jamabandi was also created in the name of the aforesaid persons including the petitioner as well as the father of the complainant/opposite party No. 2;

(ix) This creation of Jamabandi (mutation) was never challenged;

(x) Another internal partition took place between Dashrathi Sharan Singh and his sons, namely Anjani Kumar Singh (the complainant/opposite party No. 2) and Arun Kumar Singh and, accordingly, partition memorandum was signed by the aforesaid three persons on 04.04.2004 and jamabandi was also accordingly created in their names;

(xi) The aforesaid partition dated 05.12.1992 between Dashrathi Sharan Singh and other agnats in deciding the petition was never challenged nor the mutation order dated 17.12.1992, passed in favour of the petitioner and his family members, was ever challenged by the father of the complainant/opposite party

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No. 2 or his/their grandfather;

(xii) Even the complainant/opposite party No. 2 did not challenge the said order of mutation, dated 17.12.1992, passed in favour of the petitioner and his family till 2010 and almost after 20 years, he filed a mutation appeal against the aforesaid mutation done in the year 1992 vide Mutation Appeal No. 66/2011-2012 before the D.C.L.R., Bhabhua, claiming the aforesaid land on the basis of Registered Gift Deed No. 6518 dated 02.06.1991, claimed to have been executed by late Kamta Prasad Singh, the grandfather;

(xiii) But the aforesaid Registered Gift Deed, dated 02.06.1991, had already been cancelled by late Kamta Prasad Singh, by virtue of Registrered Cancellation Deed dated 14.09.1992;

(xiv) The D.C.L.R., Bhabhua, without issuing notice to the petitioner and other necessary parties, allowed the appeal and set aside the impugned order dated 17.12.1992 vide his ex-parte order dated 18.05.2012;

(xv) Against the said ex-parte order passed by the D.C.L.R., Bhabhua, almost after 20 years of the mutation order, a mutation revision was preferred by the petitioner and his uncle, namely, Deo Muni Singh vide Mutation Revision Nos. 12/2012-2013 and 13/2012-2013

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respectively;

(xvi) The Additional Collector, Bhabhua (Kaimur) heard both the mutation revisions together and vide order dated 15.09.2012, set aside the order of the D.C.L.R., Bhabhua;

(xvii) It was in this mutation revision proceeding that the complainant/opposite party No. 2 alleges that the petitioner produced one document obtained by the Advocate, namely, Sanjay Kumar Srivastava, under the R.T.I., from the Deputy Director (Consolidation), Rohtas as to whether prior permission was required for transfer of land in Revenue Thana No. 419 in the year 1991, upon which, the Office, vide Letter No. 346 dated 19.10.2011, furnished information that the land in Thana No. 419 is not notified under Section 26(A) of the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956, hence till July, 1992, permission is required for transfer of the aforesaid land;

(xviii) This is the basic allegation of the complainant/opposite party No. 2 in the instant complaint case that the aforesaid document filed by the petitioner in mutation revision is not a genuine document;

(xix) Challenging the aforesaid order passed in mutation revision by the Additional Collector, the

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complainant/opposite party No. 2 had already preferred an appeal before the Bihar Land Tribunal, Patna vide B.L.T. Case No. 1507 of 2015 and B.L.T. Case No. 33 of 2016, which are pending consideration;

(xx) Besides the above, the complainant/opposite party No. 2 had already filed a Title Suit in the year 2012 vide Title Suit No. 358 of 2012 in the Court of learned Sub-Ordinate Judge, Bhabhua (Kaimur);

(xxi) In view of the complaint case, the petitioner also filed an application, under the R.T.I., before the Consolidation Officer, Bhagwanpur as to whether prior permission was required for transfer of land in Revenue Thana No. 419 in the year 1991, upon which, an information was furnished vide letter dated 04.08.2016, categorically stating that in Revenue Thana No. 419, for the transfer of land, in the year 1991, prior permission was required from the Consolidation Officer; and

(xxii) Thus, both the information supplied under the R.T.I. Act, as contained in letters dated 19.10.2011 (Annexure-6) and 04.08.2016 (Annexure-7) mentioned that permission was required for the land transfer in Thana No. 419 in the year 1991.

11. The perusal of the aforesaid factual background,

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indisputably, evince that main ground of the complainant/opposite party No. 2 for filing the complaint case for the offences under Sections 467, 468, 471 and 420 of the I.P.C., wherein *vide* order dated 04.07.2016, the learned Sub-Divisional Judicial Magistrate, Bhabhua (Kaimur) has taken cognizance of the offences under Sections 465, 468 and 471 of the I.P.C. and issued processes against the petitioner, primarily founded on this ground that there is some interpolation in Letter No. 346 dated 19.10.2011 and hence, it is forged one and, accordingly, criminal proceeding has been set in motion.

12. Very perusal of Annexure-6, which contains Letter No. 346, dated 19.10.2011, issued by the Deputy Director (Consolidation), Rohtas and perusal of the information provided *vide* information dated 04.08.2016 (Annexure-7), issued under the R.T.I. Act by the Office of Consolidation Officer, Bhagwanpur, indisputably, reveal that for transfer of land under Thana No. 419 till the year 1991, permission was required.

13. The allegation of forgery committed by the petitioner by way of interpolating certain words in the Letter No. 346, dated 19.10.2011, does not appear to be correct in view of the information furnished under the R.T.I. by the Office of the Consolidation Officer, Bhabhua, Kaimur. Both the letters, *viz.*, 19.10.2011 and 04.08.2016, state the same things, but in

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different formats. In the letter claiming interpolation and forgery, information was furnished by a different office, whereas the information dated 04.08.2016 has been issued by a different office. By merely change in the formats of providing information, one cannot claim that the forgery has been committed. There is no evidence on record to show and prove that the interpolation made in the letter dated 19.10.2011 is attributable to the petitioner because this letter has been issued by the Office of Deputy Director (Consolidation), Rohtas and there is no document, contradicting the same, has been placed on record by the complainant/opposite party No. 2. Moreover, in order to show the perversity and falsity in the allegation of the complainant/opposite party No. 2, the petitioner has also brought on record an information provided by the Office of the Consolidation Officer, Bhagwanpur, Kaimur on 04.08.2016, stating the same fact, which had earlier been stated.

14. It is the allegation that on the basis of Annexure 6, *i.e.*, the letter dated 19.10.2011, the petitioner has got favourable orders from the Court of Additional Collector, who set aside the *ex-parte* order of the D.C.L.R. passed in favour of the complainant/opposite party No. 2, which the complainant/opposite party No. 2 claims to be false and fabricated one.

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15. There is absolutely no evidence supporting, substantiating and buttressing the allegation of the complainant/opposite party No. 2 that the letter dated 19.10.2011, as contained in Annexure-6, has been interpolated and tampered by the petitioner. When one compares Annexure-6 and Annexure-7, the informations, provided by different offices with respect to the same piece of land and regarding the same query, it becomes crystal clear that there is absolutely no material differences between the two informations, at all, and neither are these two letters, at variance with each other, in terms of the contents and informations provided therein.

16. Further, if the complainant/opposite party No. 2 has any grievance with respect to letter dated 19.10.2011, that it has been forged and thereby the Additional Collector has been mislead to pass such erroneous order, he could have raised this matter before the Additional Collector itself, but he did not do the same nor did he raise this issue before the Office of the Deputy Director (Consolidation), Rohtas, wherefrom this letter has been issued. As a matter of fact, he had assailed the order passed by the Additional Collector, setting aside the *ex-parte* order of the D.C.L.R. in favour of the complainant/opposite party No. 2, before the Bihar Land Tribunal, in terms of the statutory provisions and the same is pending for final

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adjudication.

17. Moreover, the complainant/opposite party No. 2 has already filed a Title Suit with respect to the same piece of land concerning which the dispute is going on between the parties way-back in the year 2012 much before filing of the instant complaint case, arraying the petitioner as defendant, in the Court of Sub-Ordinate Judge, Bhabhua (Kaimur) and the same is *sub-judice* before the competent Court of civil jurisdiction.

18. The instant criminal prosecution, which has been lodged against the petitioner alleging offences under Sections 467, 468, 471 and 420 of the I.P.C., on the strength of allegation of claiming forgery in the letter dated 19.10.2011 issued by the Office of Deputy Director (Consolidation), Rohtas, brings me to the stage where examination of the ingredients of the offences under Sections 465, 468 and 471 of the I.P.C. becomes imperative under which cognizance has been taken against the petitioner.

19. It is apposite to note that to attract offence of Sections 465 and 468 of the I.P.C., the prosecution must establish that the accused made a false document within the meaning of Section 463 and 464 of the I.P.C., with intent to cheat.

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20. The offence of forgery and making of false document as defined under Sections 463 and 464 of the I.P.C. are extracted hereinbelow for ready reference:

> *"**463. Forgery**.-Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.*
>
> ***464. Making a false document**.-A person is said to make a false document or false electronic record:*
>
> *First-Who dishonestly or fraudulently-*
>
> *(a) makes, sign, seals or executes a document or part of a document;*
>
> *(b) makes or transmits any electronic record or part of any electronic record;*
>
> *(c) affixes any digital signature on any electronic record;*
>
> *(d) makes any mark denoting the execution of a document or the authenticity of the digital signature, with the intention of causing it to be believed that such document or part of document, electronic record or digital signature was made, signed, sealed, executed, transmitted or affixed by or by the authority or a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or Secondly who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with digital signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or Thirdly-who dishonestly or fraudulently causes any person, sign, seal, execute or alter a document or an*

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> *electronic record or to affix his digital signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practiced upon him, he does not know the contents of the document or electronic record or the nature of the alteration."*

21. Section 471 of the I.P.C. reads as hereunder:-

> *"**471. Using as genuine a forged [document or electronic record]**.-Whoever fraudulently or dishonestly uses as genuine any [document or electronic record] which he knows or has reason to believe to be a forged [document or electronic record], shall be punished in the same manner as if he had forged such [document or electronic record]."*

22. The essential ingredient of forgery under Section 463 of the I.P.C. is the making of a "false document" within the meaning of Section 464 of the I.P.C.

23. The law on this issue is settled by the Hon'ble Supreme Court in ***Mohd. Ibrahim Vs. State of Bihar***, reported in ***(2009) 8 SCC 751***, wherein it was held that when a person executes a document claiming property as his own, there is no making of a false document merely because the claim is ultimately found to be incorrect. The relevant paragraph reads as under:

> *"17. When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to*

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> *convey some property of which he is not the owner) is not execution of a false document as defined under Section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither Section 467 nor Section 471 of the Code are attracted."*

24. In the case at hand, no specific act of making, signing, executing or altering any false document has been attributed to the petitioner. The allegations, as set out in the petition, primarily concern with Letter No. 346 dated 19.10.2011 issued by the Revenue Office of the Government. However, the question whether any document was forged, the circumstances in which it was prepared or processed, and whether the petitioner had any role or knowledge in that regard must be examined with reference to the relevant documents and the materials collected during investigation. Neither is there any allegation of that nature nor is there any evidence of showing involvement of the petitioner in making or forging any documents, has surfaced in course of investigation, when the alleged interpolations in Letter No. 346 dated 19.10.2011 is seen in conjunction with the letter of 2016, it becomes absolutely clear that information as contained in the letter of 2011 do not have any interpolation. Thus, no offence under Sections 465 and 468 of the I.P.C. is also made out.

25. With respect to the allegation under Section

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471 of the I.P.C., in respect of which the learned Magistrate has taken cognizance, it is necessary to examine the ingredients of the said provision to ascertain whether the offence punishable under Section 471 of the I.P.C. is made out against the petitioner or not?

26. Like Sections 465 and 468 of the I.P.C., Section 471 of the I.P.C. also requires proof that the accused used a forged document as genuine, knowing or having reason to believe, at the time of its use, that the document was forged. In the instant case, there is no allegation, whatsoever, that the petitioner used any forged document as genuine, knowing or having reason to believe that the same was forged at the time of its use. On the contrary, the petitioner has enclosed all the relevant documents obtained from the concerned Government office, under R.T.I., for the perusal of the officials and these documents indisputably contradicts the allegation of forgery levelled against the petitioner. Moreover, there is not even a shred of evidence available on record to establish that the document in question or any other document relied upon by the petitioner and obtained from the concerned Government office, was known to him to be forged or that he had any reason to believe the same to be forged.

27. Thus, in the absence of the requisite

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ingredients of the offence, no offence under Section 471 of the I.P.C. is made out against the petitioner, nor can he be held criminally liable for the commission of the said offence.

28. The ingredients of the offence under Section 471 of the I.P.C. and the legal principles governing its applicability have been discussed by the Hon'ble Supreme Court in the case of ***Vandna Vs. State of Maharashtra***, reported in ***2025 SCC OnLine SC 1954***, wherein the Hon'ble Supreme Court has held as follows:-

> *"On the contrary, the material evidence would disclose that the documents passed through institutional hands for scrutiny, endorsement and forwarding and at certain points of time it was not in the custody of appellant at all. In such circumstances, the passing of the alleged document through the hands of several person before it was detected as forged renders unsafe to arrive at a conclusion that appellant had authored the tampering or possessed the contemporaneous knowledge of such tampering. It is apt to mention that it is well-established principle of law that suspicion, howsoever grave, cannot replace the standard of legal proof."*

Thus, in view of the allegations levelled and the evidence brought on record, no *mens rea* on the part of the petitioner appears to be established, which is a prerequisite for attracting the provisions of Section 471 of the I.P.C.

29. Thus, none of the offences for which cognizance has been taken by the learned Trial Court is made out against the petitioner and there exists no basis for

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prosecuting him for the offences punishable under Sections 465, 468 and 471 of the I.P.C.

30. In the case at hand, ingredients of the offences as mentioned under Sections 465, 468 and 471 of the I.P.C. are clearly not made out in terms of the nature of allegations as levelled in the instant complaint case. The very basis upon which the offences under Sections 465, 468 and 471 of the I.P.C. said to have been alleged, the perusal of which proves the contrary.

31. Further, the instant prosecution appears to be an outcome of malicious and vindictive approach on behalf of the complainant/opposite party No. 2, who, firstly, raised an issue of cancellation of mutation created in favour of the petitioner in the year 2012, *i.e*., almost twenty years when mutation was done way back in the year 1992 and when he obtained an *ex-parte* order from the Office of the D.C.L.R., without affording an opportunity to the petitioner and his family to place on record the correct facts for appreciation by the D.C.L.R., the complainant/opposite party No. 2 becomes aggrieved, the moment the Additional Collector set aside the *ex-parte* order passed by the D.C.L.R. in favour of the complainant/opposite party No. 2. Thereafter, the complainant/opposite party No. 2, in a well conceived and well planned manner, instituted three

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proceedings, *viz.*:

> (i) He filed Title Suit No. 358 of 2012 with respect to the disputed piece of land;
>
> (ii) He assailed the order of the Additional Collector before the B.L.T.; and
>
> (iii) He also filed a criminal case against the petitioner *vide* Bhagwanpur P.S. Case No. 88 of 2014 dated 19.06.2014 for the offences under Sections 341, 323, 506 and 379/34 of the I.P.C., in which, after investigation, the police not only submitted the final form, exonerating the petitioner and his family, but also submitted a prosecution report for prosecuting the complainant/opposite party No. 2 under Sections 182 and 211 of the I.P.C. Thereafter, the instant case was filed in the year 2016, implicating the petitioner and setting the judicial process in motion against the petitioner.

32. The aforesaid facts, indisputably, and unequivocally demonstrate the *mal* intention and ulterior motive of the complainant/opposite party No. 2, who, in order to settle personal scores and moreover, to settle land dispute with the petitioner, who is none-else than his the closest agnate, just in order to grab his land, has instituted multiple proceedings with a view to coerce and compel the petitioner to come to his terms, so that he can have lion's shares in the ancestral property, the issue which had already been settled amicably between the ancestors two decades ago.

33. This practice of initiating criminal prosecution for settling purely civil disputes has severely been deprecated by the Hon'ble Supreme Court in no uncertain terms.

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34. In almost identical set of facts, the Hon'ble Supreme Court in the case of ***Sardool Singh Vs. Nasib Kaur***, reported in ***1987 Supp SCC 146***, has observed as follows:-

> *"A civil suit between the parties is pending wherein the contention of the respondent is that no will was executed whereas the contention of the appellants is that a will has been executed by the testator. A case for grant of probate is also pending in the Court of learned District Judge, Rampur. The civil court is therefore seized of the question as regards the validity of the will. The matter is sub judice in the aforesaid two cases in civil courts. At this juncture the respondent cannot therefore be permitted to institute a criminal prosecution on the allegation that the will is a forged one. That question will have to be decided by the civil court after recording the evidence and hearing the parties in accordance with law. It would not be proper to permit the respondent to prosecute the appellants on this allegation when the validity of the will is being tested before a civil court. We, therefore, allow the appeal, set aside the order of the High Court. and quash the criminal proceedings pending in the Court of the Judicial Magistrate, First Class, Chandigarh in Nasib Kaur v. Sardool Singh. This will not come in the way of instituting appropriate proceedings in future in case the civil court comes to the conclusion that the will is a forged one. We of course refrain from expressing any opinion as regards genuineness or otherwise of the will in question as there is no occasion to do so and the question is wide open before the lower courts."*
>
> *(emphasis supplied)*

35. Reference to case of ***Mohd. Wajid Vs. State of U.P.***, reported in ***(2023) 20 SCC 2019***, would also be

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appropriate in the present facts of the case, wherein it has been held in paragraphs 36, 37 and 38 as follows:-

> *"36. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings. quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely.*
>
> *37. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc, then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.*
>
> *38. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the*

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> *overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation……..”*
>
> *(emphasis supplied)*

36. The present case, viewed in its peculiar facts and circumstances, indisputably, constitutes all the characteristics of a civil property dispute, which is sought to be converted into criminal proceedings, after several years of litigation on the basis of misinterpretation of a document, which is simply unacceptable in view of the settled judicial principles.

37. This Court, thus, is of the considered opinion that the current criminal proceeding cannot be permitted to become a weapon of harassment and coercion in disputes concerning the Title over immovable property, which the complainant/opposite party No. 2 has practically been doing and is appeared to be successful till date.

38. Suffice is to refer, at this stage, to what is arguably the most famous judgment, *i.e.*, ***State of Haryana Vs. Bhajan Lal***, reported in ***1992 Supp (1) SCC 335***, and its recent reiteration in ***M. Srikanth Vs. State of Telangana & Anr.***, reported in ***(2019) 10 SCC 373***, and ***Balaji Traders Vs. State of U.P.***, reported in ***(2025) SCC OnLine SC 131***4, wherein the Hon’ble Supreme Court has held that:-

> *“where the dispute is predominantly civil in nature; where the*

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> *allegations failed to disclose the essential ingredients of the alleged offences; where the criminal proceedings are manifestly attended with mala fide intention; where there is extraordinary and unexplained delay; and where the continuation of the prosecution would amount to abuse of process of Court"*,

warrants interference of this Court under its inherent power as contemplated under Section 482 Cr.P.C. in order to prevent, not only, the misuse, but also, the abuse of the judicial process where the disgruntled elements, just in order to satiate his/their personal lust and greed, has/have set the judicial process in motion.

39. Thus, in the backdrop of the aforesaid factual legal discussions, the instant criminal prosecution of the petitioner, being an outcome of malicious prosecution, is fit to be set aside in the interest of justice.

40. *Ex consequenti*, the order dated 04.07.2016 passed by the learned Sub-Divisional Judicial Magistrate, Bhabhua, Kaimur in connection with Complaint Case No. 510(C) of 2016, whereby finding the case *prima facie* under Sections 465, 468 and 471 of the I.P.C., cognizance has been taken, is, hereby, quashed and set aside with respect to the petitioner and all the consequent criminal proceedings emanating therefrom are also, hereby, quashed and set aside, *qua* the petitioner.

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41. It is ordered accordingly.

42. The application stands allowed.

43. All pending interlocutory application(s), if any, also stands disposed of.

(Rana Vikram Singh, J)

Supratim/Praveen-
II/Rakesh

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