

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70226 of 2022

Arising out of PS. Case No.-37 Year-2021 Thana- KHAJEKALA District- Patna

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1. Syed Ahsan Majeed, Son of Late Syed Mohammad Majeed R/o Majeed Compound, Bagh, Kalu Khan, P.S- Khajekalan, Dist- Patna
 2. Farhat Ahsan Wife of Syed Ahsan Majeed R/o Majeed Compound, Bagh, Kalu Khan, P.S- Khajekalan, Dist- Patna
 3. Syed Hussain Majeed Son of Syed Hasan Majeed R/o Majeed Compound, Bagh, Kalu Khan, P.S- Khajekalan, Dist- Patna
 4. Shahina Parween @ Syeda Shahina Majeed Wife of Syed Hussain Majeed R/o Majeed Compound, Bagh, Kalu Khan, P.S- Khajekalan, Dist- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Syed Hassan Majeed Son of Late Syed Mohammad Majeed R/o Majeed Compound, Bagh, Kalu Khan, P.S- Khajekalan, Dist- Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Patanjali Rishi, Adv.
For the Opposite Party/s : Mr. Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ANSUL
ORAL JUDGMENT

Date : 15-05-2026

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

2. Petitioners seek quashing of the order of cognizance
dated 21.02.2022 passed by learned Sub Divisional Judicial
Magistrate, Patna City, Patna in connection with Khajekalan P.S.
Case No. 37 of 2021 (G.R No. 452 of 2021) registered for the
offences punishable under Sections 341, 323, 504, 506, 379, 447,
448, 34 of the IPC.



3. The petitioner No. 3 is son of the Opposite Party No. 2, Informant. Petitioner No. 4 is the wife of the petitioner No. 3. Father has lodged a case against his son that they entered into his house and assaulted him and snatched away watch from the hand of his son Syed Faisal Majeed. They also forced them to sign a number of documents and stated that though partition has not taken place but they are selling land to someone else. The Petitioner No. 1 has lodged a formal FIR being Khajekalan P.S. Case No. 37 of 2021 dated 03.02.2021. Moreover, Petitioner No. 2 has filed suit No. 01 of 2015 against his father seeking partition which is pending. The petitioner No. 3 is a practicing Advocate of this Court and he has been implicated along with his wife Petitioner No. 4. He has even admitted of having taken recourse to under Section 144 Cr.P.C *vide* Case No. 869 of 2020 and the dispute is well within the family and it is also a subject matter. This clearly shows that dispute is essentially civil in nature which has been admitted to be settled through criminal prosecution.

4. This matter is purely a civil dispute for which remedy lies in a Civil Court in view of the decision of Hon'ble Supreme Court in the case of **Mohd. Ibrahim v. State of Bihar** reported in (2009) 8 SCC 751. The relevant paragraph No. 8 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.”

5. Hon’ble the Supreme Court has reiterated the same principle in the case of **Indian Oil Corpn. v. NEPC India Ltd.** reported in **(2006) 6 SCC 736**. The relevant paragraph No. 13 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.

“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.”

6. In view of such, the order of cognizance dated 21.02.2022 passed by learned Sub Divisional Judicial Magistrate, Patna City, Patna in connection with Khajekalan P.S. Case No. 37 of 2021 (G.R No. 452 of 2021) registered for the offences punishable under Sections 341, 323, 504, 506, 379, 447, 448, 34 of the IPC is quashed.

7. Accordingly, the present application stands allowed.

(Ansul, J)

Vikash/-

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

