

(2025) 11 PAT CK 0060

In the Patna High Court

Case No : Criminal Miscellaneous No.9047 Of 2019

Om Prakash

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 27-11-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 156(3), 239, 482
Indian Penal Code, 1860 — Section 34, 419, 420, 467, 468

Citation : (2025) 11 PAT CK 0060

Hon'ble Judges : Purnendu Singh, J

Bench : Single Bench

Advocate : Anand Kumar Singh, Ajit Kumar, Madanjeet Singh

Final Decision : Disposed Of

Judgement

Purnendu Singh, J

1. Heard learned counsel appearing on behalf of the petitioners, learned APP for the State and learned counsel for the opposite party no.2.

2. The petitioners have preferred the application under Section 482 of the Cr.P.C. for quashing of the order dated 29.11.2018 passed by the learned ACJM-X, Ara in connection with Koilwar P.S. Case No. 227 of 2013, G.R. No. 5003/13, Tr. No. 2276/13, arising out of Complaint Case No.226(C)/2013, whereby the learned Magistrate has rejected the discharge petition filed by the petitioners under Section 239 Cr.P.C. The complaint / F.I.R. was registered under Sections 467, 468 and 420/34 of the Indian Penal Code and cognizance has been taken by the learned Magistrate under Sections 419 and 420/34 of the Indian Penal Code.

3. The prosecution story, in brief, is that the informant Arun Kumar filed Complaint Case No. 226(C)/2013 before the learned Chief Judicial Magistrate, Bhojpur at Ara alleging that Om Prakash (petitioner no. 1), his wife Rita Devi and Dr. Anil Kumar (petitioner no. 2) in collusion with each other, forged and fabricated a registered gift deed dated 25.03.1987 in their favour. It is alleged

that the accused persons by impersonating a forged lady as Laxmi Devi, the mother of the informant, and owner of the land, situated at Mauza Koilwar, Baragawa, Khata No. 15, Khesra No. 3338 admeasuring 26 decimals managed to procure the registration of the said gift deed with the help of witnesses and the deed writer. The informant claims that he came to know about the alleged fraud only in May 2013 from Witness No. 1 of the complaint and thereafter requested the petitioners to get the deed cancelled. Upon receiving no response, the informant sent a legal notice, which also went unanswered. It is further alleged that on obtaining a copy of the registered deed on 31.10.2013, the informant discovered that the deed purportedly bears the thumb impression of his mother, whereas she was an educated lady who used to sign. On these allegations, the complaint was lodged under Sections 467, 468, and 420 read with Section 34 of the IPC, and the learned Magistrate forwarded the same under Section 156(3) CrPC for institution of an FIR, pursuant to which Koilwar P.S. Case No. 227 of 2013 was registered.

4. Learned counsel appearing on behalf of the respective parties informs that the opposite party no.2 who is the own brother of the petitioners have filed Title Suit No. 380 of 2013 for cancellation of the gift deed. They are also aware of the long pendency of civil cases. Considering that in near future pendency of the suit will only frustrate and aggravate hatred between the parties. As per the instruction from their respective clients, they inform this Court that the parties want to settle their dispute in respect of their ancestral property in respect of a piece of land appertaining to Khata No. 15, Khesra No. 3338 admeasuring 26 decimals, over which a house has been constructed by the father of the petitioners. Respective heirs are also entitled for their respective part of share. Considering that good sense has prevailed between the parties who are own brother, they want to settle their dispute outside the Court. The petitioners' counsel on instruction submitted that the petitioners have agreed to appear before the learned District Court at 10:30 A.M. on 09.12.2025.

5. Learned APP appearing on behalf of the State submitted that a chance be given to the parties for amicable settlement outside the court.

6. Heard the parties.

7. Considering the nature of allegation made in the F.I.R. which has a civil flavor and the same prima facie don't disclose an overwhelming element of criminality. In the absence of the element of criminality, if both civil and criminal cases are allowed to continue, it will definitely amount to abuse of the process of the Court.

8. In this regard, I find it apt to refer the observation made by the Apex Court in Para-12 in case of Paramjeet Batra v. State of Uttarakhand, (2013) 11 SCC 673, which is reproduced hereinafter::

"12. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure

ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash the criminal proceedings to prevent abuse of process of the court."

9. In case of *Usha Chakraborty v. State of West Bengal*, (2023) 15 SCC 135, while quashing the FIR therein and further proceedings based thereon, the Apex Court observed as under: -

'...the factual position thus would reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid incident and further that the dispute involved is essentially of civil nature.'

10. The Apex Court has reiterated the aforesaid proposition in recent judgment of *S.N. Vijayalakshmi & Ors. Vs. The State of Karnataka and Anr.* reported in (2025) SCC

Online SC 1575.

11. The dispute between the parties is purely civil in nature and the petitioners have willingly desired to appear before the learned District Court on 09.12.2025 at 10:30 AM, so that the matter can be referred to the District Mediation Centre.

12. Learned District Court is directed to take necessary steps to refer the matter before the learned Mediator of the District Mediation Center.

13. Learned Mediator of the District Mediation Center concerned upon appearance of the parties on the fixed date shall make his/her best efforts to settle the dispute amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of six months, till then, no coercive action shall be taken against the petitioners in connection with the aforesaid case.

14. In case, the parties resolve their dispute amicably or arrive at a mutual settlement, then the proceeding is required to be dropped in light of the law laid down by the Apex Court as referred hereinabove.

15. In case of failure on the part of the petitioners to appear on 09.12.2025 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioners shall automatically lose its force.

16. In case, it is deliberate on the part of the petitioners and they fail to reconcile, then in that case, the learned District Court shall proceed with the trial. In case, it is deliberate on the part of the opposite party no.2 to reconcile, then in that case, the interim protection granted to the petitioners shall continue

and the trial shall proceed in accordance with law.

17. Accordingly, the order taking cognizance is modified to the above extent.

18. With aforesaid direction and observation, the quashing application stands disposed of.