

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17844 of 2019
CNR No. BRHC010143492019

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1. AMRENDRA KUMAR S/o Ramji Prasad Resident of Mohalla- Daudpur Kothi, P.O.- M.I.T., P.S.- Brahampura, District- Muzaffarpur.
 2. Dr. Praveen Chandra S/o Sri Badri Narayan Resident of Mohalla- Tilak Maidan Road, P.S.- Town, District- Muzaffarpur.
 3. Shyam Bihari Prasad S/o Late Lal Govind Prasad R/v- Sheikhpur, P.S.- Ahiyapur, P.O. and P.S.- Ahiyapur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Dr. Anzar Alam S/o Zainuddin Ahmad R/v- Bandpura, P.O.- Bandpura, P.S.- Katra, District- Muzaffarpur, presently residing at Mohalla- Jai Chaowk, P.O. and P.S.- Town, District- Muzaffarpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Dubey, Adv.
For the State	:	Mr. Shailendra Kumar, Adv.
For the O.P. No. 2	:	Mr. Noumaan Ahmad, Adv.
		Mr. Rananjay Kumar, Adv.
		Mr. Arif Daula Siddiqui, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 05-10-2026

1. Heard the parties.

2. The present application has been filed for quashing of the order dated 17.11.2018 passed by learned Additional Sessions Judge 6th Muzaffarpur in Criminal Revision No. 173 of 2017, whereby and whereunder the learned revisional court has been pleased to allow the revision application after setting aside the order dated 27.05.2017 passed by learned S.D.O., East Muzaffarpur in Case No.(M) 404 of 2017, by which the proceeding initially



initiated under Section 144 of the Cr.P.C. was converted into a proceeding under Section 147 of Cr.P.C.

3. The short facts of the case is that petitioners claim to have acquired certain parcels of land through different registered sale deeds executed during the period between 2009 to 2011 and claim to have come in possession over the land purchased by them. It is their further case that there was a passage/*rasta* existing over the land through which they were using the way for ingress and egress.

4. It is alleged that subsequently opposite party no.2 started creating obstruction in the use of the said passage by raising a boundary wall. According to the petitioners, when objection was raised against such obstruction, opposite party no.2 claimed that he had himself purchased the said portion of land through registered sale deed dated 08.08.2012 and, accordingly, dispute arose between the parties with respect to the right of passage.

5. It would further appear from the pleadings that the petitioners approached the police and, on the basis of



the application submitted by them, a police report dated 23.03.2017 was submitted stating, *inter alia*, that opposite party no. 2 was attempting to obstruct the passage of the petitioners by raising a boundary wall over the land which, according to the petitioners, was purchased by them through registered sale deed dated 08.08.2012.

6. On the basis of the aforesaid police report, a proceeding under Section 144 of the Cr.P.C. was initiated before the learned S.D.O., East Muzaffarpur and show-cause notices were issued to the parties. Both sides submitted their respective show-cause replies. The petitioners claimed existence of the passage and alleged obstruction by the opposite party, whereas opposite party no.2 disputed the claim and also raised objection with regard to the title and possession of the parties over the land in question.

7. Learned S.D.O., after considering the materials available before him, came to the conclusion that the dispute between the parties related to the alleged passage/right of user and that such dispute was likely to result in breach of peace. Accordingly, vide order dated 27.05.2017, the



proceeding under Section 144 of the Cr.P.C. was converted into one under Section 147 of Cr.P.C.

8. Being aggrieved by the aforesaid order dated 27.05.2017, opposite party no. 2 preferred Criminal Revision No.173 of 2017 before the learned Additional Sessions Judge 6th Muzaffarpur. The learned revisional court, after hearing the parties and considering the materials available on record, allowed the revision vide order dated 17.11.2018 and set aside the order passed by the learned S.D.O.

9. Learned counsel appearing for the petitioners submits that the learned revisional court has committed error in interfering with the order passed by the learned S.D.O. It is submitted that the police report itself disclosed existence of obstruction over the passage and, therefore, the learned S.D.O. was justified in taking recourse to Section 147 of Cr.P.C. It is further submitted that the learned revisional court has traveled beyond the scope of the proceeding and has entered into questions relating to title and possession.

10. Learned counsel for the petitioners has further



submitted that the revisional court has failed to appreciate that there existed a dispute concerning the right of user of the land, which squarely attracts the provisions of Section 147 of Cr.P.C. It is further submitted that the order of conversion passed by the learned S.D.O. was an interlocutory order and the revision itself was not maintainable.

11. I have considered the submissions advanced on behalf of the petitioners and have also gone through the materials available on record.

12. At the outset, this Court finds substance in the objection with regard to the nature of the present proceeding. The order dated 27.05.2017 passed by the learned S.D.O. was subjected to revisional scrutiny before the learned Additional Sessions Judge. The said revisional court, after hearing the parties, has already examined the legality of the order passed by the learned S.D.O. and has recorded its conclusion thereon.

13. The present application, though styled under Section 482 of Cr.P.C., substantially seeks a fresh



examination of the very same order and the very same controversy which had already been raised before and considered by the revisional court.

14. It is well settled that the inherent jurisdiction of this Court under Section 482 of Cr.P.C. is not intended to be utilized as a substitute for a second revision. In ***Kailash Verma Vs. Punjab State Civil Supplies Corporation and Another, (2005) 2 SCC 571 : 2005 SCC OnLine SC 120***, the Hon'ble Supreme Court, while considering the scope of Section 482 of Cr.P.C. vis-à-vis the bar contained under Section 397(3) of Cr.P.C., has held that the power under Section 482 of Cr.P.C. has to be exercised sparingly and cannot ordinarily be utilized as a substitute for second revision. The limited exceptional jurisdiction cannot be invoked merely because the party is dissatisfied with the revisional order.

15. In the present case, this Court does not find any such exceptional circumstance which may justify exercise of inherent jurisdiction. The learned revisional court has considered the order passed by the learned S.D.O. and



has interfered with the same on the basis of the nature of the proceeding and the material available before it. Merely because another view of the matter may be possible cannot be a ground for treating the order of the revisional court as suffering from such perversity or illegality as may warrant exercise of inherent jurisdiction.

16. There is yet another aspect of the matter which requires consideration. The proceeding before the learned S.D.O. was initially drawn under Section 144 of Cr.P.C. The statutory scheme of Section 144 of Cr.P.C. is itself temporary in nature. Section 144(6) of Cr.P.C. specifically provides that an order under the section shall not remain in force for more than two months from the making thereof, except in the circumstances and in the manner contemplated by the said provision.

17. The Hon'ble Supreme Court in ***State of Bihar Vs. Kamla Kant Misra and Others, (1969) 3 SCC 337***, while examining the statutory scheme of Section 144 of Cr.P.C., has noticed that an order passed by the Magistrate ordinarily does not remain in force beyond two



months. Any extension beyond the ordinary period has to be in the manner contemplated by Section 144(6) of Cr.P.C., namely by the State Government by notification in the Official Gazette and in the exceptional circumstances specified therein.

18. The Constitution Bench in ***Madhu Limaye Vs. Sub-Divisional Magistrate, Monghyr and Others, (1970) 3 SCC 746***, has also explained the temporary character of the power under Section 144 of Cr.P.C. and the emergent nature of the jurisdiction exercised thereunder. The power is preventive and cannot be permitted to assume a permanent character by repeated or mechanical continuation.

19. In the present case, the proceeding under Section 144 of Cr.P.C. was initiated on the basis of the police report dated 23.03.2017, whereas the order converting the proceeding into one under Section 147 of Cr.P.C. came to be passed on 27.05.2017. Thus, the question as to whether the original order under Section 144 of Cr.P.C. was still operative within the statutory period



when the subsequent order was passed is a matter which cannot be ignored. The record placed before this Court does not clearly disclose the complete particulars regarding the date and duration of the original Section 144 of Cr.P.C. order, nor does it disclose any notification issued by the State Government under Section 144(6) of Cr.P.C. extending the operation of such order.

20. However, this aspect also does not advance the case of the petitioners at the stage of exercise of inherent jurisdiction. Rather, it demonstrates that the matter required examination with reference to the statutory scheme of Section 144 and 147 of Cr.P.C. and the materials available before the learned revisional court. The present proceeding cannot be converted into another revisional exercise for determining afresh every factual and procedural aspect which was available before the revisional court.

21. At the same time, it is made clear that the two-month limitation attached to Section 144 of Cr.P.C. cannot be circumvented merely by describing or continuing the same proceeding in another form. The statutory scheme



cannot be defeated by allowing a temporary preventive proceeding to acquire a permanent or semi-permanent character. The temporary and emergent nature of the power under Section 144 of Cr.P.C. has been emphasized by the Hon'ble Supreme Court in the aforesaid decisions.

22. In this connection, reference may also be made to ***Anuradha Bhasin Vs. Union of India, (2020) 3 SCC 637 : 2020 SCC OnLine SC 25***, wherein the Hon'ble Supreme Court, while considering the scope of Section 144 of Cr.P.C., reiterated the safeguards surrounding the exercise of such power and referred to the earlier Constitution Bench decisions. The Court also noticed the judgment in ***Acharya Jagdishwaranand Avadhuta Vs. Commissioner of Police, Calcutta, (1983) 4 SCC 522***, wherein repetitive orders under Section 144 of Cr.P.C. were held to amount to abuse of the power conferred by the provision.

23. Coming to the factual aspect of the present case, it is apparent from the pleadings themselves that the dispute between the parties is essentially concerning the



alleged *rasta*/right of user over a particular portion of land. The petitioners themselves rely upon their registered sale deeds, whereas opposite party no. 2 also relies upon his registered sale deed dated 08.08.2012. Thus, the respective claims of the parties are founded upon documents of title and the alleged right of passage.

24. The police report, as referred to in the pleadings, may disclose obstruction, but it cannot by itself confer title or conclusively determine the civil right of either party over the disputed land.

25. It is also relevant to notice that Section 147 of Cr.P.C. is concerned with a dispute regarding an alleged right of user of land or water, whether such right is claimed as an easement or otherwise, which is likely to cause breach of peace. The provision is preventive in nature and does not confer upon the Executive Magistrate jurisdiction to finally adjudicate title to the property.

26. The learned revisional court has also noticed the decision referred to in the impugned order as Sudhanshu Ranjan Das, arising out of Criminal Revision No. 204 of



1996, decided on 15.05.2001. The said decision has been noticed by the learned revisional court while considering the statutory nature of proceedings under Section 147 of Cr.P.C. This Court is conscious of the fact that every precedent has to be appreciated in the factual and statutory context in which it was rendered. Nevertheless, the principle flowing from the statutory scheme remains that the jurisdiction under Sections 144 and 147 of Cr.P.C. cannot be exercised dehors the conditions prescribed by the Code.

27. More importantly, in the present case, the petitioners seek to question the conclusion reached by the learned revisional court essentially on the basis of the same factual materials which were available before it. This Court, while exercising jurisdiction under Section 482 of Cr.P.C., is not sitting as a further court of revision over the revisional order.

28. The inherent jurisdiction is undoubtedly wide, but the width of the jurisdiction cannot be confused with its routine exercise. The jurisdiction is intended to secure the ends of justice and to prevent abuse of the process of the



Court; it is not meant to provide an additional tier of factual or revisional scrutiny merely because the party is dissatisfied with the conclusion reached by the revisional court.

29. This Court also finds that the petitioners have not been able to demonstrate any such patent illegality in the order dated 17.11.2018 which may bring the case within the exceptional category contemplated under Section 482 of Cr.P.C. There is no material before this Court to hold that the learned revisional court has acted without jurisdiction or that its order has resulted in such serious miscarriage of justice which may justify reopening the matter in exercise of inherent jurisdiction.

30. It is also worth noticing that the grievance of the petitioners with respect to the passage, construction of boundary wall, title flowing from registered sale deeds and actual right of user are matters which cannot be finally adjudicated in the present proceeding. The parties are always at liberty to agitate their respective civil rights before the competent forum in accordance with law.

31. Thus, considered from all the aforesaid



angles, this Court is of the view that the present application is, in substance, an attempt to seek a second revisional scrutiny of the order which has already been examined by the learned Additional Sessions Judge. No exceptional circumstance warranting interference under Section 482 of Cr.P.C. has been demonstrated.

32. Accordingly, the present application, being devoid of any merit, stands dismissed.

33. It is made clear that the observations made hereinabove are confined to consideration of the present application under Section 482 of Cr.P.C. and shall not be construed as a final adjudication upon the title or civil rights of either of the parties over the disputed land.

34. TCR, if any, be returned to learned trial court alongwith the copy of this judgment.

(Chandra Shekhar Jha, J)

Sudha/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	06.10.2026.
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