

**In the Court of Principal Sessions Judge, Begusarai  
(Criminal Revision Jurisdiction)  
Criminal Revision No. 262/2025**

[Against the Impugned Order dated 11.02.2025, passed in Case No. 1181M/2024, by the court of Ld. SDM, Begusarai]

**In the matter of :**

1. Akil Khan, S/o Tahir Khan  
2. Shakeel Khan, S/o Tahir Khan  
Both are R/o vill. Deona, Ward no. 10 P.S. Refinery, Distt. Begusarai  
.....**Petitioners/Revisionists.**

**Vrs.**

1. The State of Bihar .....**O.P. 1<sup>st</sup> party.**  
2. Shabbir Ahmad Khan, S/o Late Nurul Hasan Khan, R/o vill. Deona, Ward no. 09, P.S. Refinery Distt. Begusarai .....**O.P. 2<sup>nd</sup> party.**

**Present : Sri Rishi Kant,**

Principal Sessions Judge, Begusarai

Ld. Counsel for the Revisionists : Sri Mazharul Haque, Advocate.

Ld. Counsel for the O.P. no. 1/State: Sri Santosh Kumar, Ld. P.P. I/c.

Ld. Counsel for the O.P. no. 2 : Sri Md. Sanaur Rashid, Ld. Advocate.

**Date of Order: 10.04.2026**

**ORDER**

1. This criminal revision has been preferred under Section 438 of the BNSS against the impugned order dated 11.02.2025 passed by the learned Sub-Divisional Magistrate, Begusarai in Case No. 1181/2024, whereby the learned Magistrate has been pleased to convert the proceeding initially initiated under Section 163 BNSS (corresponding to Section 144 Cr.PC.) into a proceeding under Section 164 BNSS (corresponding to Section 145 Cr.PC.).
2. I have heard learned counsel for the revisionists, learned Public Prosecutor In-charge for the State, and learned counsel appearing on behalf of O.P. No. 2. I have also carefully perused the revision petition, the impugned order, the lower court records, as well as the Circle Officer's report dated 07.12.2024.
3. Learned counsel for the revisionists submits that the impugned order passed by the learned Sub-Divisional Magistrate, Begusarai is wholly illegal, arbitrary and not sustainable in the eye of law. It is contended that the learned SDM has failed to appreciate the nature of dispute, which is purely civil in character relating to title, inheritance and possession over ancestral land. It is further submitted that there was no material before the learned SDM to indicate any real or imminent apprehension of breach of peace so as to justify initiation or conversion of proceeding under Section 164 of the BNSS. Learned counsel has drawn attention to the impugned order as well as the Circle Officer's report dated 07.12.2024, on the basis of which the

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proceeding was initiated. It is submitted that the report merely narrates the genealogical background, revenue entries, and rival claims of the parties over land situated at Mauza Deonah, Anchal Barauni, without disclosing any specific incident of violence or immediate threat to public peace. It is further argued that the learned SDM, instead of confining himself to the limited scope of preventive jurisdiction, has entered into detailed discussion of title, succession and possession based on documents and pleadings of the parties, which is beyond the jurisdiction of a Magistrate under preventive provisions. It is also submitted that the conversion of proceeding has been done mechanically without recording the mandatory satisfaction regarding existence of imminent breach of peace.

4. Per contra, learned Public Prosecutor-in-charge, assisted by learned counsel for O.P. No. 2, has opposed the revision. It is submitted that from the materials on record, including the Circle Officer's report, it is evident that both parties are asserting rival possession over the disputed land and there exists tension at the spot. It is contended that in order to prevent escalation of dispute and maintain public tranquility, the learned SDM has rightly exercised jurisdiction under Section 164 BNSS. It is further submitted that the impugned order has been passed after considering the materials on record and does not suffer from any illegality.
5. Before proceeding to the merits, the question of limitation has been considered. Although the revision appears to have been filed beyond the prescribed period, considering the reasons assigned in the delay condonation petition and in the interest of justice, the delay is condoned and the revision is taken up for decision on merits.
6. I have carefully perused the impugned order dated 06.11.2024, the lower court records, including the detailed report of the Circle Officer, Barauni dated 07.12.2024, and the show-cause replies filed by both parties.
7. From the impugned order, it appears that the learned SDM initiated the proceeding under Section 103 of the BNSS (corresponding to old Section 144 Cr.PC.) on the basis of the Circle Officer's report and police information regarding dispute over land bearing Tauzi No. 1218, Khata No. 50, Khesra No. 221 situated at Mauza Deonah. Thereafter, upon appearance of the parties and filing of show-cause replies, the learned SDM proceeded to convert the proceeding into one under Section 164 BNSS.

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8. A careful reading of the Circle Officer's report reveals that the same is primarily concerned with the history of the land, including khatiyani entries, succession of Maula Bux Khan and his legal heirs, subsequent acquisition of part of the land for National Highway-31, and competing claims of inheritance between the parties. The report also records the boundaries of the land and mentions that both parties are asserting possession over the same.
9. However, significantly, the report does not disclose any specific instance of violence, confrontation, attempt of forcible dispossession, or any immediate situation which could reasonably lead to breach of peace. The observation regarding "tension" is general in nature and not supported by any concrete or proximate incident.
10. It further appears from the record that both parties, in their show-cause replies, have elaborately set up their respective claims based on title, inheritance and possession, supported by documents. The learned SDM, while passing the impugned order, has taken into consideration such claims and has discussed aspects relating to title and possession in detail.
11. At this stage, it is well settled that the jurisdiction under Section 145 Cr.PC. (now Section 164 BNSS) is preventive in nature and is confined to maintaining public peace. The Magistrate is not competent to adjudicate upon complicated questions of title or decide rights of ownership.
12. **In Ashok Kumar vs. State of Uttarakhand, (2013) 3 SCC 366**, the Hon'ble Supreme Court has held that existence of a dispute alone is not sufficient; there must be a real and imminent likelihood of breach of peace, and such satisfaction must be based on tangible material.
13. Further, **in Amresh Tiwari vs. Lalta Prasad Dubey, (2000) 4 SCC 440**, it has been held that proceedings under Section 145 Cr.PC. cannot be used as a substitute for civil proceedings and the Magistrate cannot decide title or ownership.
14. **In Ram Sumer Puri Mahant vs. State of U.P., (1985) 1 SCC 427**, it has been observed that when civil litigation is possible or pending, parallel criminal proceedings under Section 145 Cr.PC. should be avoided.
15. Applying the aforesaid settled principles to the present case, it is evident that the entire foundation of the proceeding is a civil dispute relating to title, inheritance and possession over land. The materials on record, including the Circle Officer's report, do not disclose any immediate or proximate threat to public peace.

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16. From a careful perusal of the impugned order, it is evident that the learned Sub-Divisional Magistrate, Begusarai, has proceeded to convert the proceeding from Section 163 BNSS to Section 164 BNSS primarily on the mere existence of a dispute between the parties and a general observation regarding apprehension of tension. However, the impugned order is conspicuously silent as to what specific material, which particular incident, or what concrete circumstances led the learned Sub-Divisional Magistrate, Begusarai to arrive at a satisfaction that there existed a real and imminent likelihood of breach of peace. The order does not disclose any objective basis or reasoning indicating application of judicial mind to the essential jurisdictional facts. The conclusion appears to have been reached in a routine and mechanical manner, without recording the mandatory satisfaction as required under law.
17. It is a well-settled principle of law that the exercise of preventive jurisdiction under provisions analogous to Section 145 Cr.PC. (now Section 164 BNSS) cannot be invoked merely because there exists a civil dispute between the parties over property. The sine qua non for exercise of such jurisdiction is the existence of a definite, proximate and credible apprehension of breach of peace, supported by tangible material on record. The Hon'ble Supreme Court has consistently held that such satisfaction must not only exist but must also be clearly reflected from the order itself, indicating the reasons which led the Magistrate to form such opinion. A vague or general apprehension, without reference to any specific incident or immediate threat, is insufficient to invoke such jurisdiction.
18. In the present case, neither the materials on record, including the Circle Officer's report, nor the impugned order disclose any such concrete or proximate circumstance indicating likelihood of breach of peace. There is no reference to any overt act, confrontation, attempt of dispossession, or any emergent situation requiring immediate preventive intervention. Moreover, the learned Sub-Divisional Magistrate, Begusarai has failed to record any independent or reasoned finding regarding the existence of such apprehension. The conversion of the proceeding, therefore, clearly reflects non-application of judicial mind, as well as failure to satisfy the essential jurisdictional requirements mandated under law.
19. Accordingly, in view of the aforesaid discussion and in light of the settled legal position as laid down by the Hon'ble Supreme Court, this Court is of

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the considered opinion that the learned Sub-Divisional Magistrate, Begusarai has acted beyond the scope of his jurisdiction in converting the proceeding from Section 163 BNSS to Section 164 BNSS without recording the requisite satisfaction based on cogent and credible material. The impugned order thus suffers from illegality, material irregularity and jurisdictional error, and is liable to be set aside.

20. Accordingly, the revision petition is allowed. The impugned order dated 06.11.2024 passed by the Learned Sub-Divisional Magistrate, Begusarai, in Case No. 746/2024, converting the proceeding under Section 163 BNSS to Section 164 BNSS, is hereby set aside.

The revision file be consigned to record room. Copy of this order be sent to concern court.

**(Dictated, corrected and pronounced by me in open court).**

Sd/-  
**(Rishi Kant)**  
Principal Sessions Judge  
Begusarai  
10-04-2026

Date of Judgment/Order	10.04.2026
Date of Reserving Judgment/Order	01.04.2026
Uploading Date	13.04.2026
Uploaded by	Rahul Verma