

IN THE COURT OF SESSIONS JUDGE

**Buxar, Bihar 802101
Distt. - Buxar, BIHAR.**

**Criminal Revision No. 115 of 2024
[Arising out of Case No. 545(M)2024]**

**Present: Kajal Jhamb,
Sessions Judge, Buxar.**

1. Vikash Kumar, aged about 24 years, S/o Raman Yadav,
2. Babloo Yadav, aged about 25 years, S/o Krishna Yadav,
3. Krishna Yadav, aged about 50 years, S/o Late Ram Kailash Yadav,
4. Raman Yadav, aged about 65 years, S/o Sant Vilash Singh,
5. Divas Kumar, aged about 23 years, S/o Raman Yadav

All are R/o Village - Baradi, Police Station- Bagengola, District- Buxar

.....The Revisionists

versus

1. State of Bihar
2. Vivek Kumar,
3. Ganesh Singh, both are sons of Late Ramtapsya Singh,

Both R/o Village - Baradi, Police Station- Bagengola, District- Buxar

.....The Opposite Parties

Learned Counsel for Revisionists : Dr. Kamod Prasad Singh, Ld. Adv.

Learned. A.P.P. for the State (O.P. No. 1) : Sri Aditya Kumar Verma

Learned Counsel for O.P. No. 2: Sri Ganesh Thakur, Ld. Adv.

Date of Order: 07th March, 2026

ORDER

The present is Criminal Revision petition no. 115/2024 filed u/s.- 379 Cr.P.C. against the impugned order dated 02.08.2024 passed by the Court of Learned S.D.M., Dumraon in Case No. 545(M)2024 titled "Vivek Kumar Vs. Lalji Yadav". By passing the impugned order, the Learned Court below issued show cause to the parties of

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the case asking them to furnish reasons why the bonds along with sureties be not sought from them to maintain peace. Aggrieved by the order, the Opposite parties namely Vikash Kumar, Babloo Yadav, Krishna Yadav, Raman Yadav and Divas Kumar have filed the present revision petition.

Brief facts of the case are that A.S.I. Rakesh Mahto of Bagengola P.S. filed a report vide Bagengola P.S. Non F.I.R. No. 30/2024, dated 20.07.2024 with a request to initiate proceeding u/s 126 B.N.S.S. against both the parties as on 18.07.2024 at about 07.30 A.M. due to land dispute an altercation broke out between both the parties in which second party/revisionists committed firing regarding which Bagengola P.S. Case No. 53/2024 got registered. On basis of police report the Court of Ld. S.D.M., Dumraon issued show cause to the parties asking them to furnish reasons why bonds along with sureties be not sought from them to maintain peace. The order has been challenged in the instant revision petition.

The contention of the Revisionist is that the order passed by the Learned Court below is neither in accordance with law nor in accordance with the facts of the case. The learned Court has not mentioned any reason in the impugned order. The impugned order is in violation of Hon'ble High Court, Patna judgment 1997 Vol (1) BLJR 471 which prohibits initiation of proceeding u/s 107 Cr.P.C. on basis of vague notice. There is case pending between the parties and in such circumstances the proceeding is not maintainable. The impugned order has been passed only on the basis of police report. There is a land dispute between the parties. As the order passed by the court is arbitrary and illegal, it deserves to be set aside.

Ld. P.P. for the state opposed this criminal revision stating that there is no illegality or irregularity in the impugned order passed by the Ld. court below. The order is a reasoned order and has been passed on the basis of the material available on record.

The main point to consider in present Criminal Revision is whether order dated 02.08.2024 passed by learned S.D.M, Dumraon in Case No. 545(M)2024 is liable to be quashed or not?

Heard learned Counsels of both the parties and perused police report filed vide Bagengola P.S. Non F.I.R. No. 30/2024, dated 20.07.2024 available on record, wherein preventive action has been recommended to be taken against the parties u/s 126 B.N.S.S. so as to maintain peace in the area. On basis of the police report, the learned S.D.M. Dumraon issued show cause to the parties asking them to submit their respective replies as to why they may not be asked to furnish bond of Rs. 1,00,000/- for maintaining public peace.

In the context of the matter, it is appropriate to quote the Hon'ble Allahabad High Court decision in the case of **Vindhyawasani & Others Vs. State of Uttar Pradesh (1976 SCC OnLine All 104)** has observed in para 11 that:

"11. To sum up the propositions laid down by the above authorities, the test in determining the final or interlocutory nature of an order is one and the same both in civil as well as criminal cases. That test is whether or not the

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order in question finally disposes of the rights of the parties or leaves from to be determined by the Court in the ordinary way. If the order does not finally dispose of the rights of the parties and the matters in dispute and leaves the suit or case still alive suit in which the rights of the parties have to be determined the order will remain interlocutory irrespective of the stage at which it is passed and also irrespective of the conclusive decision of the subordinate matters with which it deals. Applying this test to an order passed by a Magistrate under Secs. 107/111, Cr.P.C. that order is nothing but interlocutory because it is passed when the Magistrate is of opinion that the information received by him to the effect that any person was likely to commit breach of peace or to disturb public tranquility etc. Was credible. Acting upon that information the Magistrate simply calls upon the person concerned to show cause why he should not be bound down in the prescribed manner. Neither rights of the parties are decided at that stage nor the matter in dispute is finally disposed of. That order is simply procedural in nature. It only gives a notice to the party concerned that there is such and such allegation against him and he should turn up before the Magistrate to clarify his position. Even the correctness of the information received by the Magistrate is not finally decided at that stage nor it is decided whether or not the party concerned should be bound down. These points are to be decided when the case reaches the stage of 116 Cr.P.C."

In the light of the above mentioned observations of the Hon'ble Court, the impugned order is an interlocutory order. As such, by virtue of Section 438(2) of B.N.S.S. the present Criminal Revision is not maintainable. The parties may file their objection if any, in their respective replies to the show cause issued by the learned S.D.M. Dumraon. Hence, the present Criminal Revision is hereby **dismissed**.

The office is directed to send a copy of this order along with LCR to the Ld. Court below and consign the record of the case to the record room.

Dictated and corrected by me

Sd/-
(Kajal Jhamb)
Sessions Judge, Buxar
Dated 07.03.2026

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(Kajal Jhamb)
Sessions Judge, Buxar
Dated 07.03.2026

Date of reserving the order	26.02.2026
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