

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Miscellaneous (Petition) No. 2387/2018

Fateh Singh S/o Late Mohan Lal (allegedly S/o Late Todaram),
R/o Shahjahanpur, Tehsil Behror, District Alwar, Raj., At Present
R/o Balluwara Mohalla, Rewari, Haryana.

----Petitioner

Versus

1. State of Rajasthan Through PP.
2. Ram Singh S/o Late Mohan Lal, R/o Village Shahjahanpur,
Tehsil Neemrana, District Alwar, Raj.

----Respondents

For Petitioner(s)	:	Mr. Gaurav Gupta
For Respondent(s)	:	Mr. Shree Ram Dhakar-PP Mr. Sudhir Jain

JUSTICE ANOOP KUMAR DHAND
Order

28/04/2026

1. By way of filing the instant criminal misc. petition, a challenge has been led to the impugned order dated 22.02.2018, passed by the Court of Additional Sessions Judge No.2, Behror, District Alwar by which the revision petition submitted by the accused respondent No.2 has been allowed and the order dated 28.09.2016, passed by the Court of Judicial Magistrate, Behror, District Alwar by which cognizance was taken against the accused respondent No.2 has been quashed.

2. Learned counsel for the petitioner submits that the petitioner is one of the legal heirs of the deceased-Mohan Lal along with the accused-respondent No. 2. But at the time of death of Mohan Lal, the land bearing Khasra Nos.178, 180, 178/1796 was mutated in the name of the accused-respondent No.2 along with co-accused-Jhamanlal (since deceased) by suppressing the fact that the

petitioner is also one of the legal heirs of the deceased-Mohan Lal. Counsel submits that a complaint in this regard was filed by the petitioner before the Court of Judicial Magistrate, Behror wherein the statements of the petitioner and other witnesses were recorded and on the basis of their evidence, a *prima facie* case was found to be proved against the accused respondent No.2-Ram Singh and co-accused person viz. Jhamanlal and accordingly, cognizance was taken against them for the offence under Section 420 IPC by the Court of Judicial Magistrate, Behror, District Alwar vide order dated 28.09.2016. Counsel submits that aggrieved by the aforesaid order, the accused respondent No.2 submitted a revision petition and annexed certain documents including the petitioner's Ration Card and Voter Card wherein the name of the father of the petitioner was mentioned as Todaram in place of Mohan Lal. Relying upon these documents, a finding has been recorded by the Revisional Court that the petitioner is the adopted son of Todaram, hence, illegality has been caused by the authorities by entering the mutation of the subject land in favour of the accused respondent No.2 and co-accused Jhamanlal. Counsel submits that no adoption documents were placed on record by the accused persons before the Revisional Court. Counsel further submits that the documents relied upon and defence of the accused cannot be looked into at this stage of taking cognizance. At the stage of taking cognizance, only *prima facie case* is required to be seen and the meticulous examination of the defence of the accused cannot be conducted at this stage.

In support of his contentions, counsel for the petitioner has placed reliance upon the judgment passed by Hon'ble Apex Court

in the case of **State of Orissa Vs. Debendra Nath Padhi**, reported in **(2005) 1 SCC 568**. Counsel submits that under these circumstances, the impugned order passed by the Revisional Court i.e. the Court of Additional Sessions Judge No. 2, Behror, District Alwar is liable to be quashed and set aside.

3. Per contra, learned Public Prosecutor as well as counsel for the respondent No.2 opposed the arguments raised by counsel for the petitioner and submitted that the petitioner was adopted by one Todaram. Hence, he was not the legal heir of his biological father-Mohan Lal, and therefore, the mutation of the subject land has been rightly entered in the name of the accused respondent No. 2 along with other co-accused Jhamanlal. Counsel submits that some documents were placed on record by the accused respondent No.2 before the Revisional Court and upon perusal such documents including the Ration Card and Voter Card, the Revisional Court has recorded a cogent finding by quashing and setting aside the order dated 28.09.2016 by which cognizance was taken against the accused. Hence, interference of this Court is not warranted and the present petition is liable to be rejected.

In support of his contentions, counsel for the respondent No.2 has placed reliance upon the judgment passed by Hon'ble Apex Court in the case **Rukmani Narvekar Vs. Vijaya Satardekar and Ors.** reported in **AIR 2009 SC 1013**.

4. Heard and considered the submissions made at Bar and perused the material available on record.

5. A disputed question of fact is involved in the instant petition as to whether the petitioner was adopted by Todaram or not?

6. This disputed fact cannot be adjudicated neither by this Court nor by the Revisional Court on the basis of certain documents relied upon by the accused-respondent No.2. It is the settled proposition of law that the evidence is required to be recorded by both sides to prove or disprove any disputed questions of fact. Even otherwise, it is the settled proposition of law that at the stage of taking cognizance, only *prima facie* case is required to be seen. The meticulous examination of the evidence and defence of the accused is not required to be looked into at the initial stage.

7. In the considered opinion of this Court, the Revisional Court has committed an error in relying upon the documents submitted by the accused respondent No.2 while quashing the order of taking cognizance against him.

8. On this count alone, the impugned order dated 22.02.2018, passed by the Revisional Court is not sustainable in the eyes of law and the same is liable to be and is hereby quashed and set aside. The matter is remitted to the learned Magistrate with directions to proceed further against the accused persons in accordance with law, granting liberty to the petitioner to take all available arguments at the stage of framing of charge.

9. Accordingly, the instant petition stands disposed of. Stay application and all pending application(s), if any, also stand disposed of.

(ANOOP KUMAR DHAND),J