

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 7177/2019

Kishore Nama S/o Bajrang Lal, aged about 62 Years, R/o House No. 2/37, Housing Board, Tonk at that time Land Revenue Inspector Circle, Mandolai, P.S. Lambaharisingh, District Tonk (Raj.)

----Petitioner

Versus

1. State Of Rajasthan, Through P.P
2. Ghasi S/o Bhura, R/o Datob, Tehsil Todaraisingh, District Tonk (Raj.)

----Respondents

For Petitioner(s)	:	Mr. Praveen Jain Mr. Avinash Dhanju Mr. Bhadar Singh
For Respondent(s)	:	Mr. N.S. Dhakar-PP Mr. Shubham Sain

JUSTICE ANOOP KUMAR DHAND

Order

20/04/2026

1. By way of filing the present criminal misc. petition, a challenge has been led to the impugned order dated 26.09.2018, passed by the Court of Judicial Magistrate, Todaraisingh, District Tonk, by which cognizance has been taken against the petitioner for the offences under Sections 420, 467, 468, 471 and 120B IPC.
2. Aggrieved by the aforesaid order, a revision petition was submitted by the petitioner before the Court of Additional Sessions Judge, Malpura, District Tonk, however, the same was rejected vide impugned order dated 03.10.2019.
3. Contents of the instant petition indicate that the mutation of the subject land was entered in the name of one -Ratan Lal by the

petitioner along with other accused, i.e. the concerned Patwari-Ramesh Lal Jhakar. It was alleged in the FIR that the subject land belonged to the complainant, however, giving the benefit of ownership of the subject land to the accused, the alleged exercise of wrongful mutation was done in the accused-Ratan Lal's favour in the revenue records. After registration of FIR, the Investigating Authority submitted an application before the District Collector (Revenue Record), Tonk for grant of prosecution sanction against the petitioner in the aforesaid case but the District Collector vide its order dated 21.11.2017 refused to grant the sanction and held that no *prima facie* case is made out to issue sanction order in this regard. It appears that aggrieved by the aforesaid order dated 21.11.2017, an appeal has been preferred by the Investigating Authority and the same was also rejected. The police submitted Final Report (Negative) in favour of the petitioner, against which a protest petition was submitted by the complainant before the Court of Judicial Magistrate, Todaraisingh, District Tonk where Final Report (Negative) has been rejected and cognizance has been taken against the petitioner along with other co-accused person Ramesh Jhakhar for the offences under Sections 420, 467, 468, 471 and 120 IPC.

4. Learned counsel for the petitioner submits that mutation entries are simply fiscal entries in the revenue record and the validity of the same was assailed by the complainant-Ghasi by way of filing a suit for declaration and correction of entries in the revenue record and before the Court of Sub Divisional Officer and during the pendency of the aforesaid suit, the parties have settled their dispute by entering into a compromise and on the basis of

the compromise an order was passed on 29.04.2014 and the revenue record has been rectified and the mutation entries have been corrected in favour of the complainant. He further submits that records of revenue entries are simply deal with fiscal entries, which does not give rise to any rights in favour of any person and on this count alone, the criminal proceedings cannot be initiated and the same amounts to abuse of the process of law as the same has been held by the Co-ordinate Bench of this Court at Principal Seat, Jodhpur in the case of **Bhawani Singh Vs. State of Rajasthan and Anr.**, in S.B. Criminal Misc. (Petition) No. 2740/2013, decided on 25.07.2017. He further submits that under these circumstances, the impugned proceedings pending against the petitioner before the Court below are liable to be quashed.

5. Per contra, learned Public Prosecutor opposes the arguments raised by counsel for the petitioner and submits that the accused along with other co-accused persons misused their position by making incorrect entries in favour of other accused. Hence, the impugned order passed by the Court below does not require any interference of this Court and the present petition is liable to be rejected.

6. Considering the above facts and circumstances of the case and looking to the fact that the issue involved in this petition is no more *res integra* as the same has been decided by the Co-ordinate Bench of this Court at Principal Seat, Jodhpur in the case of **Rameshwar and Ors. Vs. State of Rajasthan and Anr.** in S.B. Criminal Misc. Petition No. 2476/2012, decided on 07.02.2013, wherein it has been held that mutation entries are fiscal entries and do not create any right in the property, hence no

offence is made out. The relevant paras i.e. para Nos. 8, 9, 10 and 11 are reproduced as under:-

"8. From a perusal of the case diary, it is apparent that the disputed mutation entry in relation where to the FIR was filed was made way back in the year 1990. The succession certificate which has been issued by the petitioner Prithvi Raj, who was the Sarpanch of the Gram Panchayat concerned at the relevant time was issued on 10.7.1990 that is nearly 23 years ago. The certificate has been issued in favour of Smt.Pari Devi and Rameshwar. At that time, there was no objection from the side of the complainant party that Smt.Bhuri Devi being the daughter of Surja Ram was thus having any entitlement of any share in the property in question.

9. The Investigating Officer too has noted in the case diary that the complainant has repeatedly been given notices for the purpose of filing on record any document for showing that Smt.Bhuri Devi was the legal heir of late Surja Ram, but, no such document has been filed till date. Though, there is oral testimony on the record by way of the statements of the legal heirs of Smt.Bhuri Devi who have deposed that Smt.Bhuri Devi was the daughter of Surja Ram but the said testimony is not supported by any documentary evidence. The relevant record which has been collected by the Investigating Officer does not show that the deceased Surja Ram was having any legal heirs apart from the petitioner Rameshwar and his wife Smt.Pari Devi. Thus, prima facie the allegation of the complainant that Smt. Bhuri Devi was a legal heir of Surja Ram and was entitled to a share in his property has not been established on record till date.

10. The matter also involves a serious question as to whether a simple mutation claimed to have been entered fraudulently in the land records can be considered to be a forgery of a valuable security. The law is well settled that the mutation entry is nothing but a fiscal entry and does not give rise to any property rights. Reliance in this regard can be had to the decision of the Hon'ble Apex Court in the case

of Narmada Bachao Andolan Vs. State of Madhya Pradesh & Anr, reported in AIR 2011 SC 1989, wherein, the Hon'ble Apex Court in Para No.123 of the judgment held as under :-

"123. In this regard, it may also be pertinent to deal with mutation proceedings heavily relied upon by the respondent No.1. Mutation proceedings are much more in the nature of fiscal inquiries. "Mutation of a property in the revenue record does not create or extinguish title, nor has it any presumptive value of title. It only enables the person, in whose favour the mutation is entered, to pay the land revenue in question."

11. In this view of the matter, this Court is of the opinion that by the execution of mutation entry of Surja Ram's land in the names of the petitioners Rameshwar and Ramdev into the revenue record way back in the year 1990 cannot give rise to any offence so as to permit continuance of the investigation of the FIR impugned. Thus, in the view of this Court, permitting continuance of the investigation of the FIR impugned is nothing but an abuse of the process of the Court."

7. The aforesaid view taken by the Co-ordinate Bench of this Court at Principal Seat, Jodhpur in the case of **Rameshwar** (Supra) has been further upheld in the case of **Bhawani Singh** (Supra).

8. Looking to the overall facts and circumstances of the case, whereby the Investigating Authority applied for issuance of prosecution sanction against the petitioner by way of filing an application and the same was rejected by the District Collector vide order dated 21.11.2017 and the aforesaid order passed by the District Collector has been further upheld by the Central Vigilance Committee and looking to the fact that the order of mutation was assailed by the complainant before the Revenue Court by way of filing a civil suit and the civil suit has been

decreed on the basis of the compromise arrived at between the parties and now the mutation has been again re-entered in the name of the complainant and applying the proposition of law as laid down in this case of **Rameshwar** (Supra), this Court finds no valid reasons to allow the impugned proceedings against the petitioner as the same would amount to abuse of the process of law.

9. In view of the reasons stated above, the impugned order dated 26.09.2018 passed by the Judicial Magistrate, Todaraisingh, Tonk stands quashed and set aside, and the subsequent order dated 03.10.2019 passed by the Additional Sessions Judge, Malpura, District Tonk also stands quashed and set aside.

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

(ANOOP KUMAR DHAND),J