

**IN THE HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE.**

**SINGLE BENCH: HON'BLE SHRI JUSTICE ALOK VERMA**

**MISCELLANEOUS CRIMINAL CASE NO.6802/2015**

**Nilesh Patidar**

**Vs.**

**State of Madhya Pradesh and others**

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Shri Manish Yadav, learned counsel for the applicant.  
Shri Abhishek Soni, learned counsel for respondent 1&2/State.  
Shri Manoj Saxena, learned counsel for respondent no.3.

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**ORDER**

**(Passed on this 21<sup>st</sup> day of December, 2016)**

This application under Section 482 Cr.P.C. is filed for quashment of FIR arising out of crime no.435/14 registered at Police Station Shajapur, under Sections 420,465,467,468/34 of IPC.

2. The relevant facts for disposal of this application are that the applicant is working as Patwari in Village Magriya District Shajapur. A complaint was filed by the complainant–Respondent no.3–Abdul Rashid Khan against his brother Abdul Hamid Khan and purchaser of the land Rajesh Maheshwari. As per the allegations in the complaint, the present applicant being Patwari incorporated the mutation in the revenue record in respect of land which belonged to the complainant. His brother Abdul Hamid sold the land to one Mr.Rajesh Maheshwari. An application was allowed by the concerning Court of Judicial Magistrate under Section 156(3) of Cr.P.C. and it was directed that a FIR be registered at police station Shajapur. In compliance of the order, the FIR was registered and

the present applicant was made accused in that case.

3. According to the present applicant, when an enquiry was made it was found that father of complainant Chote Khan S/o Jamal Khan was registered Bhumi Swami of 0.042 Hectare land bearing Survey no. 133/1. Out of this land, the father of complainant Chote Khan sold 0.021 Hectare land during his lifetime to Om Prakash, Ram Prasad, Jagdish sons of Babulal Luhar. Their names were duly mutated on land having area 0.021 Hectare. Remaining 0.021 Hectare land was gifted by Chote Khan to the complainant which was mutated in the name of the complainant on 25.10.1992. According to the allegations made in the complaint, this land was sold by his brother to Rajesh Maheshwari and mutation was done by the present applicant.

4. An enquiry was made by the Tehsildar Shajapur, who wrote a letter to Station Incharge of Police Station Kotwali Shajapur dated 06.08.2014.

The contents on this letter are produced below:-

"उपरोक्त विषयान्तर्गत संदर्भित पत्र द्वारा थाना कोतवाली के अपराध क्र/435/14 धारा 420,465,467,468,34 भादवि में ग्राम मगरिया की भूमि सर्वे क्रमांक 133/1 मिन के संबंध में चाही गई जानकारी बिन्दुवार निम्नवत् है।

ग्राम मगरिया की भूमि सर्वे क्रमांक 133/1 मिन रकबा 0.042 हे. भूमि वर्ष 1984-85 से सन 1986-87 तक छोटे खॉ पिता जमाल खॉ जाति मुसलमान निवासी ग्राम के नाम पटवारी अभिलेख में दर्ज थी। वर्ष 1987-88 में छोटे खॉ द्वारा सर्वे नम्बर 133/1 मिन रकबा 0.042 हे. में से रकबा 0.021 हे. भूमि को ओमप्रकाश रामप्रसाद जगदीश पुत्रगण बाबुलाल जाति लुहार निवासी शाजापुर के नाम विक्रय कर दी ओमप्रकाश आदि द्वारा अपना नामान्तरण क्रमांक 62 दिनांक 18.07.1987 से होकर पटवारी अभिलेख में नाम दर्ज किया गया। इसी वर्ष में छोटे खॉ के नाम सर्वे नम्बर 133/1 मिन रकबा 0.021 हे. भूमि शेष रही जिसको छोटे खॉ द्वारा वर्ष 1993-94 में अपने पुत्र रसीद खॉ पिता छोटे खॉ जाति मुसलमान निवासी मगरिया मोहल्ला शाजापुर के नाम नामान्तरण क्रमांक 90 दिनांक 20.09.1992 आदेश दिनांक 25.10.1992 को नामान्तरण स्वीकृत होकर

पटवारी अभिलेख में दर्ज हुआ। उक्त नामान्तरण से छोटे खॉ की मृत्यु उपरांत ग्राम मगरिया में शेष भूमि सर्वे नम्बरो पर वारिसान अब्दुल हमीद अब्दुल रसीद पुत्रगण छोटे खॉ जाति मुसलमान निवारी मगरिया मोहल्ला शाजापुर के नाम समान भाग पर नामान्तरण होकर पटवारी अभिलेख में दर्ज हुआ। परन्तु खसरा के आधार वर्ष 1994-95 में सर्वे नम्बर 133/1 मिन रकबा 0.021 हे. पर छोटे खॉ के वारिसान अब्दुल हमीद अब्दुल रसीद पिता छोटे खॉ के नाम लिपिकीय त्रुटि से प्रविष्ट पुनः दर्ज हो गई । इस प्रकार छोटे खॉ की भूमि सर्वे नम्बर 133/1 मिन रकबा 0.042 हे. भूमि की अलग-अलग तीन जगह प्रविष्टि 0.021-0.021 हे. दर्ज हो गई । जिस कारण उक्त प्रश्नाधीन भूमि का मूल रकबा 0.063 हे. हो गया जो मूल रकबे से अधिक है जो निम्नानुसार है।

1. सर्वे नम्बर 133/1 मिन रकबा 0.021 हे. ओमप्रकाश रामप्रसाद जगदीश पिता बाबुलाल पांचाल निवासी शाजापुर के नाम दर्ज है।
2. सर्वे नम्बर 133/1 मिन रकबा 0.021 हे. अब्दुल रसीद पिता छोटे खॉ जाति मुसलमान निवासी शाजापुर के नाम दर्ज है।
3. सर्वे नम्बर 133/1 मिन रकबा 0.021 हे. अब्दुल हमीद खॉ अब्दुल रसीद खॉ पिता छोटे खॉ के नाम दर्ज है।

सर्वे नम्बर 133/1 मिन रकबा 0.021 हे. की बृद्धि होकर 0.063 हे. हो रही है जो कि त्रुटिपूर्ण है तत्कालीन समय पटवारी श्री रामेश्वर वेष्णव , राजस्व निरीक्षक श्री गोविन्द प्रसाद सक्सेना व तहसीलदार श्री आर.के. मिश्रा पदस्थ थे।

रकबे की उक्त त्रुटि के सुधार किये जाने हेतु म.प्र.भू.रा. सहिता 1959 की धारा 115, 116 में प्रावधान वर्णित है। किंतु वर्तमान में उक्त प्रश्नाधीन भूमि के संबंध में प्रकरण माननीय न्यायिक दण्डाधिकारी महोदय शाजापुर के न्यायालय में विचारधीन है अतएव माननीय न्यायालय द्वारा प्रश्नाधीन भूमि के सम्बन्ध में अंतिम विनिश्चयन किये जाने तक उक्त सुधार किया जाना उचित प्रतित नहीं हो रहा है।”

5. According to the counsel for the applicant it was clearly mentioned in this letter that due to clerical mistake three entries were made in respect of land having area 0.021 Hactare. The land given on gift to the complainant was also entered and apart from that same area was also

entered in his brother's name which was a wrong entry and due to this wrong entry, the brother of the present applicant sold the land to Rajesh Maheshwari which is subject matter of a Civil Suit. The present applicant was not a Patwari, when this mistake took place and that time Patwari Shri Rameshwar Vaishnav, Revenue Inspector Shri Govind Prasad Saxena and Tehsildar Shri R.K.Mishra were posted, and, therefore, the present applicant was not responsible for any mistake on his part. When this clerical mistake was discovered, it was recommended by Tehsildar to correct the error in the Revenue record, however, as matter was pending before the Civil Court and also the Criminal Court, the correction of the error was kept in abeyance.

6. Learned counsel for the respondent submits that the present applicant gave two different copies. In one it was shown that land was mutated in the name of purchaser Rajesh Maheshwari and in another the land was shown in the name of the complainant.

7. In response, learned counsel for the applicant explained that as land was by clerical error entered at three places, copies of the two different entries were given to the present applicant. The present applicant filed the copies of the entire Khasra in which three distinct entries of the area 0.021 hectare were shown.

8. After taking into consideration the rival contentions of both the counsel and going through the case diary of the case as submitted by the counsel for the State and also going through the entries in the revenue record, copy of which have been filed by both the counsel, I find it is case of pure human mistake. There was no criminal intention on the part of the present applicant. No case is made out against him, as clerical error occurred much before he was posted as Patwari of that area.

9. Accordingly this application is allowed. FIR arising out of Crime No. 435/14 registered at Police Station Kotwali Shajapur under Sections 420,465,467,468/34 of IPC against the present applicant is quashed. The present applicant is discharged from the offence under Sections 420,465,467,468/34 of IPC.

C.C. as per rules.

**(ALOK VERMA)**  
**JUDGE**

**RJ/**