

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47517 of 2013

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1. Sardar Khan Son Of Ahmad Khan
 2. Zaheer Khan Son Of Jaliya Adalat Khan
 Both Resident Of Village - Piparpati, Police Station - Jogapatti, District -
 West Camparan (Bettiah)

.... Petitioner/s

Versus

1. The State Of Bihar.
 2. Dr. Vikramender Pratap Son Of Not Known Block Animal Husbandry
 Officer, Block and P.S.- Amas, District - Gaya, Resident Of Villag and Post
 - Daniyawawa, (Pendapur) Police Station - Ekangar Sarai, District -
 Nalanda.
 3. Surender Singh, S/O-Late Umesh Narayan Singh, R/O- Dihura, P.S.-
 Alipur, District-Gaya

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sajid Salim Khan, Adv
 For the State : Mr. Tapeshwar Sharma, APP

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
 SRIVASTAVA**

C.A.V. ORDER

6 24-12-2013 1. This order shall dispose of this petition filed under

 Section 482 of the Cr.P.C. for quashing the interim order dated
 22.10.2013 passed by learned Sessions Judge, Gaya in Cr. Rev.
 No. 155 of 2013 by which he entertained the aforesaid criminal
 revision and stayed the order dated 04.10.2013 passed by learned
 Sub Divisional Judicial Magistrate, Sherghati in Amas P.S. Case
 No. 135 of 2013.

2. Amas P.S. Case No. 135 of 2013 was registered
 for the offences punishable under the provisions of Prevention of
 Cruelty to Animals Act, 1960 on the accusation that with the help

of Pashu Raksha Dal, Punjab and the officials of Amas police station, Block Animal Husbandry Officer, Amas, Gaya seized 47 cattle on 27.09.2013 at about 09:30 P.M. near the village, Gamhariya. The aforesaid cattle were tied in very cruel manner and no food and water had been given to the aforesaid cattle.

3. The aforesaid case was registered on 01.10.2013 and later on, on 03.10.2013, petitioners filed a petition for release of the aforesaid cattle in their favour disclosing therein that 20 cattle belong to petitioner no. 2 whereas rest cattle belong to petitioner no. 1. The learned Sub Divisional Judicial Magistrate, Sherghati, Gaya called for a report from the concerned police station and on being receipt of the police report, learned Sub Divisional Judicial Magistrate, Sherghati ordered to release the aforesaid cattle in favour of the petitioners passing order dated 04.10.2013 which was challenged by opposite party no. 3, who claims himself to be a member of Bhartiya Gowansh Rakshan Samwardhan Parishad, a voluntary organization, before the learned Sessions Judge, Gaya by filing Cr. Rev. No. 155 of 2013 in which the learned Sessions Judge passed impugned order dated 22.10.2013 and stayed the order of learned Sub Divisional Judicial Magistrate, Sherghati till disposal of above stated revision petition.



4. Being aggrieved and dissatisfied by the impugned order, petitioners came before this Court and originally, opposite party no. 3 was not made party to this petition but later on, opposite party no. 3 suo motu appeared before this court and filed I.A. No. 1786 of 2013 which was allowed and accordingly, he was added as opposite party no. 3 to this petition by the order of this Court.

5. Learned counsel for the petitioners submits that opposite party no. 3 has no locus standi to file Cr. Rev. No. 155 of 2013 as neither the opposite party no. 3 is informant nor the victim of the Amas P.S. Case No. 135 of 2013 and it is well settled principle of law that a 3rd party cannot challenge the judicial order in criminal revision.

6. Learned counsel for the petitioners relied upon a decision passed in Peoples Union for Civil Liberties (Delhi) vs. Central Bureau of Investigation and Others reported in 1997 Cri. Law Journal 3242 in which the Apex Court of this country has held as follows :-

“The State is the master of prosecutions and that it would be extremely unsafe to accord locus standi to a 3rd party to file a criminal revision against the judicial orders. It will be unwise and unsafe to entertain criminal

revision petition by a 3rd party. The petitioner is neither the complainant nor aggrieved party. As such, I hold that the petitioner has no locus standi to file the present criminal revision petition.”

7. Learned counsel for the petitioners also relied upon the decision of **Simranjit Singh Mann vs. Union of India and another reported in A.I.R. 1993 SC 280** in which the Apex Court of this country has held that a total stranger to prosecution cannot challenge conviction and sentence in petition under Article 32 of the Constitution.

8. Learned counsel for the petitioners also cited the decision of **Janata Dal vs. H.S. Chowdhary and others reported in (1991) 3 SCC 756** in which it has been held by the Apex Court that parties to the proceeding can challenge the proceedings at appropriate time before the proper forum and 3rd parties cannot challenge the proceedings under the garb of Public Interest Litigation.

9. On the strength of aforesaid pronouncements of the Apex Court, learned counsel for the petitioners submits that learned Sessions Judge not only entertained the criminal revision no. 155 of 2013 illegally but passed illegal order staying the order of release till disposal of aforesaid criminal revision petition and, therefore, this Court should exercise its power vested under

Section 482 the Cr.P.C., so that the abuse of process of the law could be prevented.

10. On the other hand, learned counsel appearing for opposite party no. 3 refuted the above stated submissions arguing that according to written report of Block Animal Husbandry Officer, Amas, the cattle in question were seized with the help of Pashu Raksha Dal, Punjab and the officials of Amas police station. It is submitted by him that as a matter of fact, the Pashu Raksha Dal, Punjab informed to local unit of Bhartiya Gowansh Rakshan Samwardhan Parishad that the cattle were being taken for slaughter and on the aforesaid information, the members of Bhartiya Gowansh Rakshan Samwardhan Parishad became active and with the help of police caught the aforesaid cattle in a pitiable condition but learned Sub Divisional Judicial Magistrate, Sherghati without looking into the aforesaid facts ordered to release the aforesaid cattle in favour of the petitioners who claimed themselves to be owner of the aforesaid cattle. It is contended by him that in a similar situated fact, the Lucknow Bench of Allahabad High Court held in the case of **Bal Gangadhar Tripathi and another vs. State of Uttar Pradesh** reported in **Uttar Pradesh Criminal Reporter 282** that matter are in nature of Public Interest Litigation and therefore, denying



right of hearing to voluntary organization would be improper and unjust and even if Section 301 of the Cr.P.C., in strict terms may not be applicable to the facts of the case yet being almost in the nature of Public Interest Litigation and the petitioners being vitally interested in the same it would be just and proper to permit them to have a hearing in the revision because part from other things in such matters the prosecution or accused may not bring forth all the relevant facts in order to escape from clutches of law and, therefore, voluntary organizations which are represented by the petitioners should be heard by the courts.

11. Learned counsel for opposite party no. 3 also placed photostat copy of unreported order of Hon'ble Supreme Court of India passed in Cr. Appeal Nos. 283-287 of 2002 and submitted that in similar situated facts, the Hon'ble Apex Court set aside the order of release. It is further contended by him that opposite party no. 3 being representative of Bhartiya Gowansh Rakshan Samwardhan Parishad has got every locus standi to challenge the release order before the Sessions Court and the learned Sessions Judge rightly entertained the criminal revision filed on behalf of opposite party no. 3.

12. In the present case, a very short question falls for consideration as to whether opposite party no. 3 being a 3rd party

is entitled to challenge the judicial order by filing criminal revision or not.

13. Admittedly, Amas P.S. Case No. 135 of 2013 has been registered against unknown persons for the offences punishable under Section 11 of Prevention of Cruelty to Animals Act, 1960 and in the aforesaid case, 47 cattle were seized and all the seized cattle were kept in Sri Gaya Goshala, Gaya. Furthermore, it is an admitted position that petitioners were not made accused at the time of registration of first information report of Amas P.S. Case No. 135 of 2013 but later on, they filed release petition before the Sub Divisional Judicial Magistrate, Sherghati, Gaya for release of seized cattle in their favour claiming their ownership in respect of above stated seized cattle.

14. Prevention of Cruelty to Animals Act, 1960 has been enacted to prevent the infliction of unnecessary pain or suffering on animals and cruelty towards animals is punishable under Section 11 of the aforesaid Act subject to exception provided in the aforesaid Act. Therefore, the aforesaid Act has been brought into existence to prevent cruelty towards animals and the actual victims of the offence of the above stated Act are animals.

15. In the present case, there is allegation that 47



cattle had been kept in a very cruel manner and the above stated Amas P.S. Case No. 135 of 2013 was lodged on the basis of written report of Block Animal Husbandry Officer, Amas who seized the cattle with the help of Pashu Raksha Dal, Punjab and the officials of Amas police station and, therefore, it appears that Pashu Raksha Dal, Punjab was very active in seizure of the aforesaid cattle. So far as opposite party no. 3 is concerned, he claims himself to be member of Bhartiya Gowansh Rakshan Samwardhan Parishad, a voluntary organization.

16. No doubt, the Apex Court of this Country has held in **Peoples Union for Civil Liberties (Delhi) vs. Central Bureau of Investigation and Others reported in 1997 Cri. Law Journal 3242** that a 3rd party has no locus standi to file criminal revision petition against the judicial orders as the said 3rd party is neither complainant nor aggrieved party. Therefore, it is obvious from perusal of the aforesaid decision that a revision petition can be entertained, if the same is filed by complainant or aggrieved party.

17. Now, it has to be seen as to whether opposite party no. 3 is an aggrieved party or not. Admittedly, the prevention of Cruelty to Animals Act, 1960 has been enacted to prevent the infliction of unnecessary pain or suffering on animals



and Directive Principles of State Policy enshrined in Article 48 of the Constitution says that the State have endeavour to prohibit the slaughter of cows and calves and other milch and draught cattle and therefore, if any animal is put into cruelty and State fails to protect the aforesaid animal, even a stranger to the proceeding being Indian citizen has every right to take the help of legal recourse to prevent the cruelty towards the said animal. Admittedly, in the present case, opposite party no. 3 is neither informant nor victim but being an aggrieved person he has right to challenge the order of release passed by learned Sub Divisional Judicial Magistrate, Sherghati in the aforesaid case. Moreover, from perusal of certified copy of order dated 22.10.2013 passed in Cr. Rev. No. 155 of 2013, it appears to me that up till now the aforesaid Cr. Rev. No. 155 of 2013 has not been admitted and the said criminal revision petition is still pending for hearing on the point of admission.

18. Therefore, on the basis of aforesaid discussions, I am of the opinion that opposite party no. 3 will certainly come under the definition of aggrieved person and he has right to file Cr. Rev. No. 155 of 2013. So far as the above stated order dated 22.10.2013 relating to stay of order dated 04.10.2013 passed by learned Sub Divisional Judicial Magistrate, Sherghati is

concerned, it is discretionary power of learned Sessions Judge, Gaya and this Court cannot interfere into the aforesaid order at this stage.

19. Considering the aforesaid facts and circumstances as well as submissions of the parties, I do not find any substance in this petition and accordingly, this petition stands dismissed on admission stage itself. However, it is made clear that learned Sessions Judge, Gaya shall not be prejudiced with the observations made by this Court in this order at the time of hearing of aforesaid criminal revision on the point of admission or at the time of final hearing.

(Hemant Kumar Srivastava, J)

SHAHZAD/-