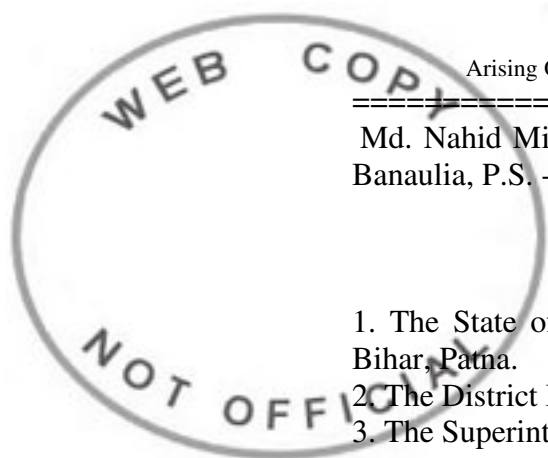




IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1180 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- NALANDA (BIHARSHARIFF)

Md. Nahid Mian @ Md. Nahid son of Bholu Mian Resident of village/Mohalla - Banaulia, P.S. - Bihar, District - Nalanda.

.... Petitioner/s

Versus

- 1. The State of Bihar through The Secretary Home Department, Government of Bihar, Patna.
- 2. The District Magistrate, Nalanda.
- 3. The Superintendent of Police Nalanda.

.... Respondent/s

with

Criminal Writ Jurisdiction Case No. 1226 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- NALANDA (BIHARSHARIFF)

Md. Dipu son of Bholu Mian Resident of Village / Mohalla - Banaulia PS - Bihar, District - Nalanda.

.... Petitioner/s

Versus

- 1. The State of Bihar Through The Secretary Home Department, Government of Bihar, Patna.
- 2. The District Magistrate, Nalanda.
- 3. The Superintendent of Police Nalanda.

.... Respondent/s

Appearance :

(In Cr. WJC No. 1180 of 2014)

For the Petitioner/s : Mr. Md. Khurshid Alam
For the Respondent/s : Mr. Rana B.N. Singh, A.C. to G.P.-9

(In Cr. WJC No. 1226 of 2014)

For the Petitioner/s : Mr. Khurshid Alam
For the Respondent/s : Mrs. Kumari Amrita, G.P.10
Mr. M.K. Upadhyay, A.C. to G.P.10

CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 10-02-2015

Heard learned counsel for the petitioners and learned counsel for the State.

Learned counsel for the State has raised a preliminary objection that statutory alternative remedy is available to the petitioners against the orders impugned.

Learned counsel for the petitioners submits that the jurisdictional issue is involved in the matter. In support of his stand, he refers to a judgment and order dated 27.1.2015 passed in Cr.W.J.C. No.1214 of 2014: Md. Rinku Mian vs. The State of Bihar and others and submits that under similar circumstances, these two petitioners have also been directed to be externed for a period of six months.

So far as the facts of the petitioners' case are concerned, it is clear from the impugned orders that charges against the petitioners also relate to Sections 295, 295A and 153 of the Indian Penal Code, which would be relevant charges relatable to the disturbance of public order. Moreover, there is nothing in the reply to the show cause filed by the petitioners which indicates that the petitioners had expressed their desire to be given reasonable opportunity of examining themselves and also of examining any other witnesses whom they wished to produce.

In the said circumstances, the District Magistrate was not required to pass any other order on the same. Had the petitioners

expressed any such desire, the District Magistrate would have been required to give reasons for not permitting the same to the petitioners.

Thus, we are of the view that this is not a case in which the petitioners can be permitted to say that jurisdictional issue is involved.

Both the writ applications are, accordingly, dismissed on the ground of maintainability with liberty to the petitioners to approach the statutory appellate authority. In case any such appeals are filed respectively by the petitioners within a period of six weeks from today along with an application for condonation of delay, then the Appellate Authority shall consider the same keeping in view the fact that the petitioners have been pursuing the matters before this Court.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Anjana Mishra, J)

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