

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2170 of 2015

Arising Out of PS.Case No. -55 Year- 2013 Thana -LAUKHA District- MADHUBANI

- =====
1. Ramesh Kumar Sah Son of Late Ram Chandra Sah Resident of Village - Laxmipur, Police Station - Laukaha, District - Madhubani
 2. Shiv Ram Saha @ Shiv Ram Kumar Sah Son of Baij Nath Sah
 3. Birendra kumar Paswan Son of Ram Das Paswan Both no. 2 AND 3 are Resident of Village - Belahi, Police Station - Bartsain, District - Saptari (Nepal)

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhas Ranjan, Adv.

For the Opposite Party/s : Mr. Arun Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 17-09-2015

By way of filing the present application under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.), the petitioners have challenged the order dated 24.10.2013 passed by the learned Judicial Magistrate 1st Class, Jhanjharpur in T.R. No. 3170 of 2013 arising out of Laukaha P.S.Case No.55 of 2013 whereby the learned Magistrate has made certain corrections in his earlier order dated 24.09.2013.

2. The petitioners were charge-sheeted in the aforesaid police case under Sections 414 of the Indian Penal Code and 135 of the Customs Act. By order dated 24.09.2013 the learned Magistrate took cognizance of the offence under Section 414 of the Indian Penal Code

alone. However, by subsequent order dated 24.10.2013 the learned Magistrate has held that while passing the order dated 24.09.2013 Section 135 of the Customs Act could not be recorded due to secretarial inadvertence, and therefore, he corrected the same and took cognizance of the offence under Section 414 of the Indian Penal Code as also Section 135 of the Customs Act.

3. Learned counsel for the petitioner has submitted that such correction is not permissible in law in view of the specific bar under section 362 Cr.P.C..

4. On the other hand, learned counsel for the State has submitted that the bar created under Section 362 Cr.P.C. is not attracted in the present case as the court has neither altered nor reviewed its judgment while passing the impugned order dated 24.10.2013. He submits that the court has simply corrected the clerical error which had crept in the order dated 24.09.2013.

5. I have heard the respective counsel for the parties and perused the record.

6. Section 362 Cr.P.C. reads as under :-

“362. Court not to alter judgment.

Save as otherwise provided by this Code or by any other law for the time being in force, no Court when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.”

7. From a bare perusal of the provision prescribed under section 362 Cr.P.C. it would appear that no court when it has signed its judgment while disposing of the case is permitted to alter or review the same except to correct the clerical or arithmetical error. The impugned order dated 24.10.2013 would make it evident that the earlier order dated 24.09.2013 has neither been recalled nor reviewed. Simply because the court failed to record Section 135 of the Customs Act while taking cognizance, the same has been corrected immediately. Such correction is permissible under section 362 Cr.P.C.

8. In that view of the matter, I do not find any merit in the application. Accordingly, the application is dismissed.

(Ashwani Kumar Singh, J)

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