

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.19141 of 2015

Arising Out of PS.Case No. -58 Year- 2011 Thana -KHAGARIA COMPALINT CASE District-KHAGARIA

Tarakant Jha & Ors

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bidhan Chandra Jha

For the Opposite Party/s : Mr. S.Dayal (App)

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 27-07-2015 Heard learned counsel for the petitioners, learned counsel
for O.P. No. 2 as well as learned A.P.P..

Petitioners, who happen to be opposite parties before the learned lower court have challenged the order dated 19.11.2014 passed by the Additional Distt. & Sessions Judge-II, Khagaria in Cri. Revision No. 82 of 2013 which was filed by the first party/O.P. No. 2 against an order dated 21.11.2013 passed by Executive Magistrate, Gogri, Khagaria in a proceeding under Section 147 of the Code of Criminal Procedure (case No. 58(M)/11 Bikash Jha Vs. Tara Kant Jha & Ors.).

In order to delve the issue in its right perception, Annexure-I, petition filed by O.P. No. 2/applicant before the learned lower court has been gone through wherefrom, it is apparent, particularly from Paragraph -7 as well as paragraph-8

that opposite parties have already succeeded in blocking the path by constructing a boundary wall up to the height of three feet. No date has been disclosed. The petition was filed on 02.02.2011. It has also not been evolved that within 3 months proceeding from filing of the aforesaid petition, O.P. No. 2/applicant was duly exercising the right, which happens to be the sine-qua-non for initiation of a proceeding under Section 147 of the Cr.P.C. as is required under Section 147(3) Cr.P.C..

After going through the order impugned it is apparent that learned revisional court did not perceive the aforesaid mandatory requirement of blocking, on account thereof, the order impugned did not justify its relevancy.

Accordingly, the impugned order is set aside and this petition is allowed.

(Aditya Kumar Trivedi, J)

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