

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12312 of 2013

Arising Out of PS.Case No. -72 Year- 2010 Thana -BAHERA District- -

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1. Fatma Khatoon W/O Md. Maksud Alam @ Masud Alam
2. Md. Maksud Alam @ Masud Alam S/O Late Abdul Mohit
Both R/O Village-Navtolia, P.S.-Bahera, Distt.-Darbhanga

.... Petitioner/s

Versus

1. State Of Bihar
2. Md. Hassan Imam S/O Late Md. Tahir, R/O Village-Navtolia, P.S.-
Bahera, Distt.-Darbhanga

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Jharkhandi Upadhyay (App)

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO

ORAL ORDER

3 16-07-2015 Heard the learned counsel, Mr. Ashok Kumar Mishra for the petitioner, the learned counsel, Mr. Madhusudan Kumar for O.P. No.2 and the learned counsel, Mr. Jharkhandi Upadhyay, A.P.P. for the State.

This criminal miscellaneous application has been filed by the petitioners for quashing the order dated 12.02.2013 passed by learned 1st Additional Sessions Judge, Darbhanga in Cr. Revision No.197 of 2010 whereby revision application was dismissed and the order dated 05.07.2010 passed by learned A.C.J.M., Benipur, Darbhanga in Bahera P.S. Case No.72 of 2010 corresponding to G.R. No.72 of 2010 was confirmed.



It appears that the brother of the petitioner No.1 filed complaint alleging that the petitioner No.1 along with her husband, petitioner No.2 fraudulently obtained domicile certificate and age of petitioner No.1 was changed from 02.12.1964 to 02.12.1974. The complaint was sent to lodge F.I.R. After lodging F.I.R., the police filed final form. When the matter was pending, the I.O. filed application for seeking permission for “Punah Investigation”. The learned A.C.J.M. allowed the said application.

The learned counsel for the petitioners submitted that “Punah” means reinvestigation; therefore, the Magistrate has no jurisdiction to direct or order for reinvestigation. The revisional court therefore, wrongly dismissed the revision application, as such, both the orders are liable to be quashed.

On the other hand, the learned counsels for both opposite parties objected the prayer and submitted that the writing of reinvestigation by I.O. or by the Magistrate in order will not matter anything because I.O. sought for further investigation.

Perused the order passed by the learned A.C.J.M. and the Revisional Court. The only grievance of the petitioner is that the Magistrate cannot order for reinvestigation as he has no jurisdiction to do so. Section 173(8) Cr.P.C. empowers the investigating agency for further investigation. Because the matter

was pending before the Court as no order was passed on the basis of final form, the I.O. had the power for further investigation. However, since the matter was pending, only permission was sought for. It is not the fact that the Magistrate ordered for reinvestigation. The word “Punah” has been written by the I.O. The Revisional Court has clarified the matter and held that it is nothing but further investigation.

In view of the above facts and circumstances of the case, this is not a case for exercise of jurisdiction under Section 482 Cr.P.C. Accordingly, this criminal miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

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