

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.628 of 2014

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1. Ram Chandar Prasad Singh S/o Late Musafir Singh R/o village of
Dumduma Hasanpur, P.O.- Nandlapur, P.S. and District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar
2. Maheshwar Singh S/o Late Musafir Singh
3. Shrimati Muneshwari Devi Wife of Maheshwar Singh R/o village-
DumDuma Hasanpur, P.O.- Nandlapur, P.S. and District- Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Shahnawaz Ali

For the Respondent/s : Mr. Ram Bachan Singh(App)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 21-12-2016

Heard learned counsel for the parties.

2. The petitioner is aggrieved by an order, dated 16.04.2014 passed by learned First Additional Sessions Judge, Vaishali at Hajipur in Criminal Revision No. 209 of 2013, whereby he has set aside an order dated 04.07.2013, of taking cognizance of the offence punishable under Section 188 of the Indian Penal Code.

3. On the basis of an application filed by the petitioner before the Sub Divisional Officer, Hajipur, a proceeding under Section 144 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the **Code**), was initiated in which a restraint order was passed on 30.03.2012. It is alleged that Opposite party Nos. 2



and 3, despite the said restraint order, dated 30.03.2012 continued with the construction of the house over the disputed land for the period 06.04. 2012 to 08.04.2012.

4. It further appears that for the said conduct of the Opposite party Nos. 2 and 3, the Sub Divisional Officer, Hajipur passed an order on 08.06.2012 for initiating action under Section 188 of the Indian Penal Code.

5. This is not in dispute that no complaint case was filed for one year after the said order, dated 08.06.2012 was passed. A complaint case was subsequently filed on the basis of the order of the Sub Divisional Officer on 04.07.2013 registered as Complaint Case No. C49 of 2013. Cognizance was, accordingly, taken on 04.07.2013.

6. The Opposite party Nos. 2 and 3 being aggrieved by the said order preferred revision application before the Court below against the order taking cognizance mainly on the ground that despite being barred under Section 468 of the Code, the Magistrate had wrongly taken cognizance.

7. This is to be noted that an offence under Section 188 of the Indian Penal Code is punishable with sentence of imprisonment for a term, which may extend to one month or the fine of 200 rupees, or both (in the background of the nature of



allegation in the present case).

8. Section 468 of the Code puts bar for taking cognizance after lapse of a period of limitation. Section 468(2) of the Code prescribes the period of limitation to be one year if the offence is punishable with an imprisonment for a term not exceeding one year. Considering the said provision of the Code, learned First Additional Sessions Judge, Vaishali at Hajipur, set aside the order taking cognizance there being statutory bar because of limitation.

9. The order, dated 16.04.2014 impugned in the present application does not suffer from any illegality.

10. This application has no merit, which is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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