

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40867 of 2013

- =====
1. Madhu Singh @ Madhurendra Kumar.
 2. Pramod Kumar Singh,
Both sons of Late Rejendra Prasad Singh.
 3. Basuki Nath Singh, son of Late Sahdeo Singh.
All resident of village Mor, P.S- Mokama, District – Patna.

.... Petitioners.

Versus

1. The State of Bihar.
2. Nitin Kumar, son of Narendra Kumar Singh, resident of village-Mor, P.S.
Mokama, District-Patna.

.... Opposite Parties.

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Appearance :

For the Petitioners : Mr. Madan Prasad Singh, Advocate.
For the State : Mr. Harendra Prasad, A.P.P.
For the Opposite Party No.2 : None.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 17-03-2016

Heard learned counsel for the petitioners and the learned
A.P.P. for the State. No one appears on behalf of the opposite party
no.2 despite service of notice upon him.

2. This application, under Section 482 of the Code of
Criminal Procedure, is directed against the order dated 09.07.2013
passed in Case No.507 of 2013 in a proceeding under Section 107 of
the Code of Criminal Procedure by the Sub Divisional Magistrate,
Barh, Patna, whereunder both the parties of the proceedings, in which
the petitioners were the members of the Second Party and the opposite
party no.2 was the member of First Party, were directed to file show

cause as to why they be not ordered to execute the bonds of Rs.5000/- with two sureties of the like amount each to maintain the peace for a period of one year.

3. Learned counsel appearing on behalf of the petitioners submits that it would appear from the impugned order dated 09.07.2013 passed in Case No.507 of 2013 and the notice (Annexure- '1' to this application), which has been issued consequent thereupon that substance of accusation has not been detailed which is the basic requirement for issuing the notice under Section 111 of the Code of Criminal Procedure to file show cause. As such, the impugned order and the notice, as issued consequent thereupon, is bad in law.

4. On perusal of Section 111 of the Code of Criminal Procedure, it is apparent that when the Magistrate deems necessary to require any person to show cause, he shall make order stating the substance of information received.

5. The impugned order and the notice shows that only it is detailed in printed Proforma that due to land dispute there is apprehension of breach of peace in between the parties. Neither in the impugned order nor in the notice, description of the land in dispute is detailed. As such, impugned order and the notice as issued thereupon is against the spirit of Section 111 of the Code of Criminal Procedure and bad in law.

6. Under the aforesaid facts and circumstances, the impugned order dated 09.07.2013 passed in Case No.507 of 2013 by the Sub Divisional Magistrate, Barh, Patna, to initiate the proceeding under Section 107 of the Code of Criminal Procedure and the show cause notice issued consequent thereupon, is quashed. Accordingly, this application stands allowed.

(Rajendra Kumar Mishra, J)

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