

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.626 of 2014

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1. Md. Umar Son of Md. Hanif resident of village + Post Office + Police Station- Nirmali, Ward No.-8, District- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar
2. The S.D.O. Nirmali, Supaul.
3. The Circle Officer Nirmali, District- Supaul.
4. The Station Head Officer Nirmali, Police Station- Nirmali, District- Supaul.
5. Mustaqeema Khatoon Wife of Nurul Hoda resident of village + Post Office + Police Station- Nirmali, Ward No.-8, District- Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Shamimul Hoda
For the State : Mr. Ram Anurag Singh (App)
For Opposite party No.5 : Miss Monika

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

3 21-12-2016 Heard learned counsel for the parties.

2. The present criminal revision application has been filed challenging an order, dated 30.05.2014 passed by the learned Sub Divisional Officer, Nirmali, Supaul in M. R. Case No. 50 of 2013 in purported exercise of power under Section 133 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the *Code*).

3. By the said order, the petitioner has been asked to keep the windows of his house closed so that the privacy of the Opposite party No.5 is not breached. It was alleged in a



proceeding under Section 133 of the Code that Opposite party No.2 has a courtyard in her house, which is visible from the first floor of the petitioner's house. The Opposite party No.5 had also alleged that the petitioner was causing unlawful obstruction over the land, which was being used for way by the Opposite Party No.5 and other person.

4. It appears from the impugned order that Sub Divisional Officer; Nirmali had before passing the impugned order, sought for a report from the Circle Officer, Nirmali and the Officer Incharge of the Nirmali Police Station. They, in their reports clearly mentioned that there was no obstruction caused in passage through the land in question. The said reports have been accepted by the Sub Divisional Officer, Nirmali. However, considering the other plea that privacy of the house of Opposite party No.2 was being breached because of opening of windows of the house of the petitioner, the said impugned order has been passed.

5. Learned counsel appearing on behalf of the petitioner has rightly submitted that no such order could have been passed by the Sub Divisional Officer in a proceeding under Section 133 of the Code, which deals with public nuisances only.

6. The said submission appears to be correct. In my



view, the Sub Divisional Officer, after having found that there was no obstruction on the way in question; he ought to have dropped the proceeding. Scope of Section 133 of the Code is confined to removal of public nuisance only.

7. In that view of the matter, the impugned order dated 30.05.2014 is not sustainable and the same is set aside.

8. Accordingly, this application is allowed.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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