

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.521 of 2016

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M/s Suraj Rice Mill, Sati Asthan, Masaurhi, P.S. Masaurhi, District Patna a proprietorship firm through its proprietor Renu Devi wife of Sri Purushottam Kumar @ Kallu Singh, resident of village Dhanauti, P.S. Masaurhi, District Patna.

.... Petitioner/s

Versus

- 1.The State of Bihar, Through The District Magistrate-cum-collector, Patna.
- 2.The Sub Divisional Magistrate, Masaurhi, District- Patna.
- 3.The Circle Officer, Masaurhi, District- Patna.
- 4.The Station House Officer, Masaurhi, District- Patna.
- 5.The Block Development Officer, Masaurhi, District- Patna.
- 6.Chotey Singh son of Late Satrudhan Singh, resident of Mohalla Sati Asthan, Masaurhi, P.S. Masaurhi, District Patna.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry, Adv
For the Respondent/s : Mr. Durgesh Nandan AAG-14 & Mr. Umesh
Kumar AC to AAG-14.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT

Date: 07-03-2017

Heard learned counsel for the petitioner, learned counsel appearing on behalf of the private respondent no. 6 and learned Additional Public Prosecutor for the State.

The petitioner in the present criminal revision application is aggrieved by an order dated 10.03.2015, passed by learned Sub Divisional Magistrate, Masaurhi, whereby the petitioner has been asked to remove the rice mill, being a public nuisance, in exercise of power under Section 133 of the Cr.P.C.

A very short point has been raised on behalf of the petitioner to assail the impugned order. It has been submitted that a



proceeding under Section 133 Cr.P.C., was initiated whereafter the petitioner was noticed. Referring to the ordersheet maintained by the court of learned Sub Divisional Magistrate, Masaurhi in the connected Case No. 985 of 2014, learned counsel for the petitioner has submitted that the petitioner appeared before the learned Sub Divisional Magistrate, Masaurhi on the date fixed for the said purpose. By an order dated 25.02.2015, the Circle Officer, Masaurhi and the Block Development Officer, Masaurhi were directed to make independent inquiry and submit report. When the matter was taken up on 04.03.2014, because of non-submission of reports by the Circle Officer, Masaurhi and the Block Development Officer, Masaurhi, the matter was ordered to be adjourned to 23.03.2015. It appears from the ordersheet that on 10.03.2015, the report was submitted by the Block Development Officer, Masaurhi and on the same date the impugned order dated 10.03.2015 came to be passed.

It is the case of the petitioner that he did not have any liberty to see and deal with the report submitted by the Block Development Officer, Masaurhi. It has further been submitted that the Sub Divisional Magistrate, Masaurhi could not have preponed the date unilaterally from 23.03.2015 to 10.03.2015 without due intimation to the petitioner.

The impugned order dated 10.03.2015, in my view



cannot be sustained since the facts which have been submitted are not in dispute. The order dated 10.03.2015 is set aside. This application is allowed.

The Sub Divisional Magistrate, Masaurhi is directed to pass an order afresh within one month from the date of receipt/production of a copy of this order after giving the petitioner opportunity of hearing. The Sub Divisional Magistrate, Masaurhi will be required to consider the plea of the petitioner that he has requisite licence etc., to run the rice mill.

It is made clear that I have not gone into the merit of the petitioner's claim of his right to run the said business. Learned Sub Divisional Magistrate, Masaurhi will be free to pass an appropriate order under Section 133 of the Cr.P.C., in accordance with law.

This application is allowed with the observation as above.

(Chakradhari Sharan Singh, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.03.2017
Transmission Date	10.03.2017

