

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37218 of 2014

Arising Out of PS.Case No. -298 Year- 2004 Thana -AURANGABAD TOWN District-
AURANGABAD

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1. Indradeo Narayan Singh Son of Ganpat Singh Resident of Village - Piar,
Post - Dihuri, P.S. - Atri, District- Gaya.
2. Kranti Kumar Verma Son of Janki Nandan Verma resident of Mohalla -
Janakpur, P.S. - Mofassil, Gaya, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar Through The Chief Secretary Government of Bihar.
2. The District Magistrate, Aurangabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Singh

For the Opposite Party/s : Mr. Sucheta Yadav(App)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 19-08-2017

Heard the learned counsel for the petitioners.

Petitioners seek quashing of the order dated
24.03.2009 passed by the learned Judicial Magistrate 1st class,
Aurangabad in connection with Aurangabad (Town) P.S. case no.
298 of 2004 whereby cognizance has been taken against the
petitioners and others under Section 134 of Representation of the
People Act, 1951.

The F.I.R. is said to have been lodged on the
direction of opposite party no. 2 by the Additional Collector
wherein it has been alleged that in all about 160 persons were
deputed for election duty in the parliamentary election of 2004,



however, they did not obeyed government orders and did not make themselves available at the Centre where they were posted, hence they have made themselves liable to be prosecuted under Section 134 of Representation of the People Act, 1951.

The learned counsel for the petitioners submits that Section 134 of Representation of the People Act, 1951 provides for punishment by way of fine for breach of official duty and the fine provided is only Rs. 500/-. It is further submitted that a bare reading of Section 134 of Representation of the People Act, 1951 would show that the said Section is applicable to a person who, without any reasonable cause, is guilty of any act or omission in breach of his official duty. The learned counsel further submits that in the present case, the petitioners were not served with the posting order, hence the requirement of “ *without any reasonable cause guilty of any act or omission in breach of his official duty* ” is absent in the present case hence, the order taking cognizance is liable to be set aside. The learned counsel next submits that the petitioners have already superannuated from their services and in a similar case, similarly situated co-accused person namely Ram Pujan Sharma has been granted relief by this Court by an order dated 23.12.2014 passed in Cr. Misc. no. 39786 of 2012 whereby and whereunder, the order taking cognizance dated



24.03.2009 as against him has been set aside. For the reasons stated hereinabove, the petition is allowed and the order taking cognizance dated 24.03.2009 passed in connection with Aurangabad (Town) PS case no. 298 of 2004 is quashed as far as the petitioners herein are concerned.

(Mohit Kumar Shah, J.)

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