

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.43644 of 2011

Arising Out of PS.Case No. -0 Year- null Thana -null District- WESTCHAMPARAN(BETTIAH)

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Akhauri Pulin Bihari Verma, s/o late Bipin Bihari Verma, resident of village-
Sherwa, P.S.- Matiyariya, District- West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
 2. Jagdish Prasad Shrivastava, s/o late Kalika Prasad
 3. Manoj Shrivastava, s/o late Kalika Prasad
- Both residents of village Sherwa, P.S. Matiyariya, Distt. West Champaran

4. Hashim Mian, s/o Rehman Mian
5. Rafique Mian, s/o late Ramzan Mian
6. Gyasuddin Mian, s/o late Ramzan Mian
7. Azajul Mian
8. Ishrafil Mian
9. Sakeem Mian

All three sons of late Jumman Mian

10. Aras Mian
11. Farman Mian
12. Abarul Mian

All three sons of late Bhikham Mian

13. Shameem Mian, son of Bhikhan Mian
14. Nazeer Mian
15. Kasim Mian

Both sons of Ibrahim Mian

16. Md. Roshan @ Md. Rehan Mian, s/o Ahmad Mian
17. Farooque Mian, s/o Bari Mian
18. Manager Mian, s/o Shaheed Main

All residents of village- Dadral, P.S.- Matiyariya, District- West Champaran

.... Opposite Party/s

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Appearance :

For the Petitioner/s : None.
For the Opposite Party No. 4 to 18 : Mr. Bashishtha Narayan Mishra,
Advocate Mr. S.N. Rai, Advocate.
Mr. B.K. Mishra, Advocate.
For the State : Smt. Suman Kumari Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 12-10-2017

1. This application under Section 482 of the Code of



Criminal Procedure has been filed for quashing that part of the order dated 6.8.2011 passed by learned Sub Divisional Magistrate, Narkatiaganj (West Champaran) in Case No. 632M of 2008 by which the learned Magistrate has recalled the order passed under Section 146(1) Cr. P.C. for attachment of the property in question.

2. Learned counsel for the opposite parties No. 4 to 18 is present. None appears on behalf of the learned counsel for the petitioner. Learned counsel for the State is also present.

3. This Court after perusing the Provisions of Section 146 (1) Cr. P.C. does not find any illegality in that part of the order by which the learned Magistrate has recalled the order of attachment under Section 146 (1) Cr. P.C.

4. Proviso of Section 146 (1) Cr. P.C. provides that Magistrate may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of breach of the peace with regard to the subject of dispute.

5. In the impugned order, this Court finds that learned Magistrate has mentioned that there is no apprehension between the members of 1st party and 2nd party.

6. Therefore, this Court does not find any illegality in that part of impugned order by which the learned Magistrate has recalled the order passed under Section 146 (1) Cr. P.C.



7. The counsel for the opposite party No. 2 has submitted that because of pendency of this Cr. Misc. petition, no progress has been made in the proceeding under Section 145 Cr. P.C. He has made prayer to give necessary direction to the learned court below to conclude the proceeding under Section 145 Cr. P.C. expeditiously.

8. In such circumstances, this Criminal Miscellaneous application is disposed off with direction to learned Sub Divisional Magistrate, Narkatiaganj, to dispose of the Proceeding under Section 145 Cr. P.C. expeditiously after taking relevant evidence of the parties as required under Section 145 (4) Cr. P.C. and make all attempts to pass final order in the case, positively within a period of six months from the date of receipt of this order.

9. This Criminal Miscellaneous application is accordingly disposed off with aforesaid direction.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	28/10/2017
Transmission Date	28/10/2017

