

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.929 of 2016

=====

Lalita Devi, wife of Shri Nandkeshwar Singh, resident of village Deokund,
Police Station Deokund, District Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. Birju Mahto @ Teni, son of Rampravesh Mahto, resident of village
Sahar Telpa, Police Station Karpi, O.P. Sahartelpa, District Arwal

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Dhirendra Kumar Sinha Mr. Yashpal Yadav
For the Respondent/s	:	Mr. Vinod Shanker Modi
For O.P. No. 2	:	Mr. Ashutosh Jha Mr. Narendra Pandey

=====

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

5 09-02-2017 Heard learned Counsel for the petitioner,

learned Counsel appearing on behalf of Opposite Party No.

2 and learned Additional Public Prosecutor representing the

State.

The petitioner is aggrieved by an order, dated
29.09.2015, passed, in Case No. 805 of 2015, by the
learned Sub Divisional Magistrate, Daudnagar, whereby he
has dismissed the petitioner's application, filed under
Section 133 of the Code of Criminal Procedure, 1973,
against Opposite Party No. 2.

From the records, it appears that in the said
application before the learned Sub Divisional Magistrate,



Daudnagar, the petitioner had raised grievance against Opposite Party No. 2, who was operating a flour mill and an oil mill with the aid of a diesel machine.

The plea, which was taken by the petitioner in the said proceeding, was that operation of flour mill was not only causing air pollution, but also causing inconvenience to the local residents. In addition, the Opposite Party No. 2 had not got any license for running the said flour mill.

From the impugned order passed by learned Sub Divisional Magistrate, Daudnagar, I find that he has considered the report of the Officer-in-Charge, Deokund Police Station, and a report submitted by the Circle Officer, Goh.

Learned Counsel for the petitioner has submitted, drawing my attention to Annexure-1 to the present application, which is the report submitted by the Circle Officer, Goh, dated 01.08.2015, that the learned Sub Divisional Magistrate, Daudnagar, overlooked the said report, which mentions the inconvenience being caused by running of the flour mill to the local people.

Learned Counsel appearing on behalf of Opposite Party No. 2 has, however, attempted to justify the impugned order.



Considering the materials on record and submissions advanced on behalf of the parties, I find substance in the submission made on behalf of the petitioner that the report of the Circle Officer, Goh, has not been duly considered by the Sub Divisional Magistrate, Daudnagar, in his impugned order.

Accordingly, the impugned order, dated 29.09.2015, passed in Case No. 805 of 2015, is set aside. The matter is remanded back to the Sub Divisional Magistrate, Daudnagar, to pass an order afresh after considering the report of the Circle Officer, Goh, as contained in Annexure-1 to the present application.

Such decision must be taken within a period of two months from the date of receipt/production of a copy of this order.

This application is allowed with the observation, as above.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

U	✓	T	✓
---	---	---	---

