

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.5328 of 2017

An application under section 482 of the Code of Criminal Procedure

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1. Madan Murari Pathak, Son of Late Radheshwar pathak
 2. Dyanand Pathak Son of Madan Murari pathak
 3. Dilip Pathak @ Dilip Kumar Pathak
 4. Pradeep Pathak @ Pradeep Kumar Pathak Both Sons of Late Ram Naresh pathak All Resident of Village-Bans Bigha P.S.-Pauthu District-Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. Parwati Devi Wife of Surendra Prajapati Resident of Village-Bansh Bigha P.S.-Pauthu District Aurangabad

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nand Kishore Prasad Sinha

For the Opposite Party/s : Mr. Binod Kumar 3

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CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

C.A.V. JUDGMENT

Date: 20-06-2017

Heard learned counsel for the parties.

Petitioners, by means of this application under section 482 of the Code of Criminal Procedure, have invoked the inherent jurisdiction of this Court with prayer to quash the order dated 11.11.2016, passed by Sri Ramesh Ranjan Prasad, Executive Magistrate, Aurangabad in Case No. 2507 of 2015, Tr. No. 40 of 2016 arising out of a proceeding under section 107 of the Code of Criminal Procedure, whereby petitioners have been directed to execute bond of Rs. 1,00,000/- (one lac) of two sureties for maintaining peace for one year.

Learned counsel for the petitioner submits that learned Magistrate has failed to consider the fact that dispute between the



parties is for taking money and the same is purely civil in nature. The present prosecution is misuse of the process of the Court as there is no apprehension of breach of peace. Further, the impugned order has been passed after lapse of eleven month from the date of initiation of the proceeding without extending the period. As such, the impugned order is not sustainable in law.

Learned counsel appearing for the State opposes the application by contending that there are allegations against the petitioner and no ground for quashing the impugned order is made out.

From perusal of the materials available on record and looking into the facts of the case at this stage, this Court finds that the order impugned is a revisable order and petitioners may avail their remedy before the revisional Court. As such, the order impugned call for no interference by this Court under its extra ordinary jurisdiction under section 482 of the Code of Criminal Procedure. The prayer for quashing the impugned order is refused.

The application accordingly stands dismissed.

(Arvind Srivastava, J)

Manish/-

AFR/NAFR	NAFR
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