

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.606 of 2016

- =====
1. Sohan Prasad S/o Late Bhola Mahto Resident of Village/Mohalla - Gauri Shankar Mandir Colony, Gulzarbagh, P.S. - Alamganj, District - Patna, at present address resident of Mohalla - Khemnichak, P.S. - Ramkrishna Nagar, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Principle Secretary, Land Reform Department, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Kendriya Kshetra, Patna.
4. The Director General of Police, Kendriya Kshetra, Patna.
5. The Senior Superintendent of Police, Patna.
6. The Superintendent of Police, City, S.P., Patna.
7. The District Magistrate, Patna.
8. Sub-Divisional Magistrate, Patna Sadar, District - Patna.
9. The Officer-in-charge of Ramkrishna Nagar P.S. District - Patna.
10. Gajendra Prasad
11. Mahendra Prasad Both Sons of Late Bimal Prasad Resident of Mohalla - Bhawar Pokhar Bagicha, P.S. - Pirbahor, District - Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh, Advocate
For the Respondent/s : Mr. Uma Kant Shukla, Advocate
Mr. Sunil Kumar, AC to GP-11

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 08-03-2017 Heard learned counsel for the petitioner and learned Government Pleader for the State as well as learned counsel for the private respondent.

2. A proceeding under Section 144 Cr.P.C. was going on vide Misc. Case No.949(M) of 2016 on the petition of the petitioner before the learned Sub-Divisional Magistrate, Patna Sadar. Respondent Nos.10 to 11 were opposite parties in



the case. On 04.06.2016, the learned Sub-Divisional Magistrate, Patna Sadar, directed maintenance of the status quo while calling for a report from the police station concerned on the prayer of the petitioner. On the same day, subsequently, the learned Court-below withdrew the aforesaid order without assigning any reason.

3. Submission of the petitioner is that the subsequent order is bad-in-law because the criminal Court has no power to alter operative order in view of specific bar under Section 362 Cr.P.C.. Moreover, the order has been recalled without assigning any reason for recall of the same or without giving opportunity of hearing to the parties.

4. On the other hand, learned counsel for the respondent submits that even if it is assumed that the impugned order is bad in law, this writ application is itself infructuous as the proceeding has already been disposed of on 21.06.2016 and the life of the proceeding was only for sixty days from the date of final order. Hence, the final order has also lost its force in the eyes of law.

5. There is no dispute that the order dated 04.06.2016, whereby the order of maintenance of status quo was directed, was passed without hearing the parties and



assigning any reason. Its subsequent recall without hearing the parties or assigning any reason is also not sustainable.

6. In the circumstances, learned Sub-Divisional Magistrate, Patna Sadar, be communicated to be careful, in future, in passing any order without hearing the parties. Since, the learned Sub-Divisional Magistrate is exercising quasi judicial functioning under Sections 107, 144, 145, 146 Cr.P.C. Hence is required to give opportunity of hearing to the parties and assign reason for any order.

7. With the aforesaid observation, this writ application stands disposed of as the matter before the Court-below has itself been disposed of and the same has become infructuous.

Mkr./-

(Birendra Kumar, J)

U		T	
---	--	---	--

