

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47506 of 2014

Arising Out of PS.Case No. -null Year- null Thana -null District- MADHUBANI

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Md. Sufi S/o Md. Yasin, Resident of village- Kharra, P.S. and District- Madhubani

.... Petitioner/s

Versus

1. The State of Bihar
2. Lal Mohammad S/o Md. Yasin, Resident of village- Kharra, P.S.- Madhubani,
District- Madhubani

.... Opposite Party/s

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Appearance:

For the Petitioner/s : Mr. Gagandeo Yadav, Advocate

For the State : Mr. S.D. Singh Yadav, APP

For the Opposite Party/s : Mr. Manish Kumar No. 13
Mr. Jitendra Kumar Bharti, Advocate

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 10-01-2018

The present petition has been filed against the order dated 03.03.2014 passed in Criminal Revision No. 430 of 2013 passed by the learned 3rd Additional Sessions Judge, Madhubani whereby and whereunder the learned court below has set aside the order dated 22.05.2013 passed by the S.D.M., Sadar, Madhubani by which he has stayed the order dated 21.02.2013 passed by the Ex-S.D.M., Madhubani. The notice dated 18.06.2013 has also been set aside.

The learned S.D.M. Sadar, Madhubani vide the order dated 21.02.2013, which has now been revived on account of the Criminal Revision No.430 of 2013 being allowed by the learned trial court by the order dated 03.03.2014, has directed the petitioner herein to remove his flour mill and hauler machine since the same was/is creating nuisance in the area.

The learned counsel for the petitioner submits that by the order



dated 03.03.2014, the learned 3rd Additional Sessions Judge, Madhubani has primarily adjudicated the case on the issue as to whether the subsequent S.D.M. could have stayed the earlier order since he has come to the conclusion that the earlier order passed by the S.D.M. could not have been stayed by the subsequent S.D.M. In this regard, the learned counsel for the petitioner submits that the S.D.M. has the power to review his decision and in fact the said flour mill and the hauler machine was being run by the petitioner since 14-15 years.

Having regard to the facts and circumstances of the case, I am of the view that the matter requires re-consideration by the learned 3rd Additional Sessions Judge, Madhubani. Hence the order dated 03.03.2014 passed by the learned 3rd Additional Sessions Judge in Criminal Revision No. 430 of 2013 is quashed and the matter is remanded to him for fresh adjudication of the matter after giving ample opportunity to the parties to represent their case and argue on the basis of the materials available on the record. The final order may be passed by the learned 3rd Additional Sessions Judge, Madhubani within four weeks of receipt of the certified copy of the present order.

The present petition is disposed off with the aforesaid observations.

(Mohit Kumar Shah, J)

S.Sb/-

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