

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2840 of 2017

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1. Kalawati Devi wife of Shri Kamleshwar Ojha,
 2. Kamleshwar Ojha son of Late Rajaram Ojha, Both Residents of Mohalla- Indraprastha Manjhaulia, Adarsh Nagar, Road No. 3, Police Station- Sadar Muzaffarpur, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Bibha Pandey, wife of Shri Ashok Kumar Pandey, Resident of Mohalla- Indraprastha Manjhaulia, Adarsh Nagar, Road No. 3, Police Station- Sadar Muzaffarpur, District- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahasweta Chatterjee, Adv.

For the Respondent/s : Mr. Md. N.H. Khan (Sc-1)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 18-08-2018 Heard learned counsel for the petitioners and learned counsel representing the private respondent as also the State.

By filing this writ application, the petitioners have challenged the order dated 17.07.2017 passed by the learned 2nd Additional Sessions Judge, Muzaffarpur, in Criminal Revision No.84 of 2016 by which the learned 2nd Additional Sessions Judge, has been pleased to dismiss the revision application preferred by the petitioners challenging the order dated 04.09.2012 passed in Case No. M 612 of 2006. The petitioners have in addition challenged the order dated 04.09.2012 and has also included a relief seeking a challenge to the order dated 11.02.2006



which was not the subject matter of revision before the learned 2nd Additional Sessions Judge.

In course of hearing, it has been crystallized that so far as the order dated 11.02.2006 is concerned, by this order the 144 Cr.P.C proceeding was converted in a proceeding under Section 145 Cr.P.C, but the petitioners have never challenged this order before any competent Court.

For the first time, while challenging the order dated 04.09.2012, a mention has been made in the prayer portion seeking a challenge to the order dated 11.02.2006. This Court would, therefore, not allow the petitioners to challenge the order dated 11.02.2006 at this stage when the said order was not challenged earlier before any Court of law for a period of 11 years. So far as the order dated 04.09.2012 is concerned, by this order the 145 Cr.P.C proceeding was converted in a proceeding under Section 147 Cr.P.C, the reason thereof may be found from the impugned orders including the order passed by the learned 2nd Additional Sessions Judge which clearly states that in fact, the respondent had in his application at the very first instance raised a dispute with regard to 'Rasta' and, therefore, if it was pointed out to the Executive Magistrate by the private respondent and then the Executive Magistrate was satisfied that it is a case with respect to



the '*Rasta*' being claimed by the private respondent in terms of Section 147 Cr.P.C., he converted the proceeding under Section 147 Cr.P.C.

In the considered opinion of this Court, learned 2nd Additional Sessions Judge has not committed any error and the reasons and rational provided in his order fully satisfies this Court to affirm the same.

The writ application has no merit. It is, accordingly, dismissed.

(Rajeev Ranjan Prasad, J)

Arvind/R.R.Ojha/Ved

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