

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79797 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Khagaria

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1. Rajesh Sah @ Rajesh Pd. Sah S/o Sri Deonandan Sah R/o village- Nauranga, P.O.- Keshav Nagar, Pargana- Farkia, P.S. and Anchal- Chautham, District- Khagaria
 2. Sito Sah S/o Sri Deonandan Sah R/o village- Nauranga, P.O.- Keshav Nagar, Pargana- Farkia, P.S. and Anchal- Chautham, District- Khagaria
 3. Basant Sah S/o Deonandan Sah R/o village- Nauranga, P.O.- Keshav Nagar, Pargana- Farkia, P.S. and Anchal- Chautham, District- Khagaria
 4. Dharma Sah S/o Sri Deonandan Sah R/o village- Nauranga, P.O.- Keshav Nagar, Pargana- Farkia, P.S. and Anchal- Chautham, District- Khagaria
 5. Gopal Sah S/o Sri Yogendra Sah R/o village- Nauranga, P.O.- Keshav Nagar, Pargana- Farkia, P.S. and Anchal- Chautham, District- Khagaria
 6. Deonandan Sah S/o Bindeshwari Sah R/o village- Nauranga, P.O.- Keshav Nagar, Pargana- Farkia, P.S. and Anchal- Chautham, District- Khagaria
 7. Yogendra Sah @ Prem Nandan Prasad Gupta S/o Late Bindeshwari Sah R/o village- Nauranga, P.O.- Keshav Nagar, Pargana- Farkia, P.S. and Anchal- Chautham, District- Khagaria

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kartik Singh S/o Late Gango Singh R/o village- Adaboni, P.O.- Keshav Nagar, Pargana- Farkia, P.S. and Anchal- Chautham, District- Khagaria

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amrendra Kumar
For the Opposite Party/s : Mr.Sanjay Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 09-12-2019 Heard learned counsel for the petitioners and

learned counsel for the State.

2. This application has been filed for quashing the

cognizance order dated 05.08.2019 passed in Cr. Rev. No.102 of

2018 by Sri Uma Shankar Dwivedi, learned Sessions Judge,



Khagaria by which he dismissed the Revision Petition filed by the petitioners and affirmed the order dated 12.09.2018 passed by S.D.M., Khagaria in Case No.115M of 2018 by which the learned S.D.M. had directed the petitioners to furnish interim bond of Rs.50,000/- with two sureties of like amount to maintain peace.

3. It appears that a Bataidari proceeding was initiated against the petitioners on the application of opposite party no.2 as he claims to be the Bataidar of Rakwa 03 Bigha, 05 Kattha, 12 Dhoor of Khesra No.666/3, Mauza Aadabari and he has been declared as Bataidar by Court of D.C.L.R. in Bataidari Case No.74/77-78 vide order dated 18.12.2014/21.02.2015. It further appears that Circle Officer, Chautham was deputed as Magistrate for delivery of possession for which, on the spot, petitioners misbehaved the C.O. for which Chautham P. S. Case No.01 of 2018 was registered. It further appears from perusal of the record that petitioners have preferred Bataidari Appeal No.01 of 2015 pending before the Collector. Record further shows that S.D.M., Khagaria in a proceeding under Section 107 and 116 Cr.P.C., after hearing the parties and going through the record of the case, passed the order impugned dated 12.09.2018 by which he directed the



petitioners to furnish bond of Rs. fifty thousand with two sureties to maintain peace during pendency of the proceeding. Against which the petitioners have preferred revision application, which has been dismissed on the ground the order impugned is interlocutory in nature.

4. Submission of learned counsel for the petitioners is that opposite party no.2 was never in possession of the land and entire exercise of the police is wrong and the order asking the petitioners to execute bond is in violation of mandatory provisions of Section 107 and 116 of the Cr.P.C., as such, the same is not sustainable in the eye of law, however, the learned Sessions Judge without considering the same, has dismissed the revision application on the ground of order being interlocutory.

5. On the other hand, learned A.P.P. opposed the application stating that this is a second revision application in the garb of application under Section 482 of the Cr.P.C. Moreover, the order is only interlocutory in nature and that has been passed by learned S.D.M. in a proceeding under Section 107 Cr.P.C.

6. Having heard both sides. On perusal of the record, it appears that an order has been passed after hearing



both sides in a proceeding under Section 107 of the Cr.P.C. by the S.D.M. by which the order for execution of bond has been passed considering the danger of life and property from the petitioners. It further appears that earlier Bataidari proceeding was decided in favour of opposite party no.2 by the D.C.L.R. and when the C.O. has gone to the spot for delivery of possession, they have been misbehaved and for that an F.I.R. was also lodged.

7. In such view of the matter, it appears that there are prima facie materials showing apprehension of disturbance of peace, life and property at the hands of the petitioners and on being satisfied, the S.D.M. has passed the order impugned.

8. Considering the same, I find no merit in this application. Accordingly, this application is dismissed.

(Vinod Kumar Sinha, J)

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