

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 88 of 2023

Arising Out of PS. Case No.-92 Year-2021 Thana- KUSHESHWARASTHAN District-
Darbhanga

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1. Dev Kumar Ray @ Deva Roy @ Dev Kumar S/O Sri Kedar Ray Resident Of Village- Dih Kalna, P.O. Aurahi, P.S.- Kusheshwar Asthan, District- Darbhanga.
 2. Rahul Kumar @ Rahul Rai S/O Ramavtar Rai Resident Of Village- Dih Kalna, P.O. Aurahi, P.S.- Kusheshwar Asthan, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Laxmi Kumari D/O Horil Paswan Resident of Village- Dih Kalna, P.O. Aurahi, P.S.- Kusheshwar Asthan, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Sinha, Adv.
	:	Mr. Santosh Kumar, Adv.
For the Respondent/s	:	Mr. Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 13-04-2023 Heard learned counsel for the petitioners and

learned A.P.P. for the State.

The petitioner has filed the present criminal revision application against the order dated 10.11.2022 passed by Special Judge (POCSO Act), Darbhanga in POCSO G.R. No.30A/ 2021 (Arising out of Kusheshwar Asthan P.S. Case No.92 of 2021) under Sections 376(D), 504, 506/34 of the I.P.C. read with Section 4/6 of the POCSO Act, 67A, 67B, 67C of I.T. Act and 3(2) (v) of SC/ST Act.

Learned counsel for the petitioners submits that the

present petitioners are innocent and their names have preferred in this case unnecessarily. Counsel further submits that the final form has been submitted against them and upon issuance of summons by the court to the complainant, the complainant has no objection in accepting the final form but even then, the court has taken cognizance under various sections against the petitioners and others.

Counsel for the State submits that it is well within the jurisdiction of court that court may take cognizance differing the name shown in the charge-sheet.

Counsel further submits that the court is bound to accept the pleadings of the complainant who is not interested to pursue this case. He also submits that even after going through the content of F.I.R., it states that no offence as mentioned in the order sheet has been made out.

Counsel for the State submits that the Trial Court has to look into only prima facie case is made or not.

After hearing the parties and going through the content of pleadings, it transpires to this court that power of taking cognizance under Section 190 of Cr.P.C. is vested in the court and at the level of taking cognizance, only prima facie case is made out whether complainant accepts to close or not to

close. As cognizance may be taken by the court on its own merit.

In this view of the matter, I am not inclined to interfere in the said order. Therefore, this Cr. Revision Application is **dismissed**. But liberty is hereby granted to the petitioner that he may raise his grievances before appropriate forum at appropriate stage and the said authority shall consider his petition without any prejudice from the order passed by this court.

(Dr. Anshuman, J.)

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