

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1554 of 2023

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

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1. MUNESHWAR SINGH SON OF LATE BASDEO SINGH R/O VILLAGE-DHENUKI, P.S.- MARHOURAH, DISTRICT- SARAN
 2. SANJAY KUMAR SINGH @ SANJAY SINGH SON OF MUNESHWAR SINGH R/O VILLAGE- DHENUKI, P.S.- MARHOURAH, DISTRICT- SARAN
 3. AJAY KUMAR SINGH @ AJAY SINGH SON OF MUNESHWAR SINGH R/O VILLAGE- DHENUKI, P.S.- MARHOURAH, DISTRICT- SARAN

... .. Petitioner/s

Versus

1. State of Bihar BIHAR
2. ARUN SINGH SON OF RAMESHWAR SINGH R/O VILLAGE-DHANUKI, P.S.- MARHOURAH, DISTRICT- SARAN

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar Srivastva

For the Opposite Party/s : Mr.Bharat Lal

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 05-09-2023 1. Heard learned counsel for the petitioners learned
A.P.P. for the State.

2. Learned counsel for the petitioner submits that the petitioners were aggrieved by an order dated 10.12.2021 passed by the learned S.D.M. whereby the proceeding under Section 144 Cr.P.C. was converted under Section 145 Cr.P.C, it is next submitted that the petitioners being aggrieved by the order dated 10.12.2021 moved before the learned Sessions Judge by filing revision being Cr. Revision No. 07 of 2022, it is next submitted that from perusal of the revisional order dated 08.04.2022



passed by the learned Sessions Judge, it would manifest that the learned Sessions Judge has recorded that the learned court below has no right to pass any order, it is next submitted that when the learned Sessions Judge has recorded that the court below had no right to pass such order i.e., converting the proceeding under Section 144 Cr.P.C to 145 Cr.P.C, then in that event, the learned Sessions Judge ought to have interfered and set aside the order passed by the learned S.D.M. but that not having been done makes the order vulnerable.

3. Learned A.P.P. for the State, Mr. Chandra Bhushan Prasad, vehemently opposes the submissions made by the learned counsel for the petitioners and submits that, no doubt, the tenor of the order passed by the learned Sessions Judge is not sustainable but even then criminal revision was not maintainable as pointed out by the learned A.P.P. for the State before the learned Sessions Judge that the order dated 10.12.2021 was an interim order and had not attained finality and since the order dated 10.12.2021 was an interim order, as such, revision was not maintainable under Section 397 Cr.P.C..

4. Learned A.P.P. for the State further submits that the issue raised by the learned A.P.P. for the State before the Learned Sessions Judge with regard to maintainability of the



criminal revision was not decided.

5. After considering the submission made by the learned counsel for the petitioners and the learned A.P.P. for the State, the order dated 08.04.2022 in Cr. Revision No. 07 of 2022 is set aside and the matter is remanded back to the learned Sessions Judge, Saran at Chapra to decide the issue afresh after considering all the materials on record including the legal issues.

(Satyavrat Verma, J)

HarshPandey/-

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