

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15160 of 2023

Arising Out of PS. Case No.-606 Year-2021 Thana- ARA NAWADA District- Bhojpur

1. SHREESH PANDEY @ SHREESH BHUSHAN PANDEY S/O BRAJENDRA BHUSHAN PANDEY R/o mohalla- Uma Nagar Chandwa More, P.S.- Arrah Nawada, District- Bhojpur
2. VIKASH PANDEY @ KSHITISH BHUSHAN PANDEY S/O BRAJENDRA BHUSHAN PANDEY R/o mohalla- Uma Nagar Chandwa More, P.S.- Arrah Nawada, District- Bhojpur
3. BRAJENDRA BHUSHAN PANDEY S/O LATE RAMESHWAR PANDEY R/o mohalla- Uma Nagar Chandwa More, P.S.- Arrah Nawada, District- Bhojpur

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. SURAJ KUMAR TIWARY S/O KAMLA TIWARY R/o mohalla- Uma Nagar Chandwa More, P.S.- Arrah Nawada, District- Bhojpur

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Braj Bhushan Mishra, Advocate
For the State	:	Mr. Ashok Kumar Singh, APP
For Opposite Party No.2	:	Mr. Arun Kr. Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

5 04-03-2024 Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel for the informant/Opposite Party No.2.

2. This application has been filed under Section 482 of the Code of Criminal Procedure, 1973, on behalf of the petitioners for quashing the order dated 21.06.2022 passed by the learned Sessions Judge, Bhojpur, Ara, in Cr. Revision No. 71 of 2021, as well as the order dated 25.08.2021 passed by the learned C.J.M., Bhojpur, Ara, in Ara Nawada P.S. Case No. 606



of 2021 (G.R. No. 3328 of 2021) whereby and where under the learned C.J.M. took cognizance for the offence punishable under Section 504 of the Indian Penal Code against all the petitioners.

3. The prosecution story in brief is that on the alleged date and time of occurrence, while the informant/Opposite Party No. 2 was performing *Aarti* in temple, all these petitioners came there and made objections and thereafter abused and assaulted the informant/Opposite Party No. 2 by means of iron rod with the intention to kill him.

4. Thereafter, F.I.R. was registered bearing Ara Nawada P.S. Case No. 606 of 2021 for the offences punishable under Sections 341, 323, 427, 379 and 34 of the Indian Penal Code. The police, after thorough investigation, submitted final form against all these petitioners for the offence punishable under Section 504 of the Indian Penal Code and thereafter the learned Chief Judicial Magistrate, Bhojpur, took cognizance vide order dated 25.08.2021. Thereafter, the petitioners challenged the order of cognizance dated 25.08.2021 before the court of learned Sessions Judge, Bhojpur, vide Cr. Revision No. 71 of 2021, which stood dismissed vide order dated 21.06.2022.

5. Learned counsel appearing on behalf of the petitioners submits that the revision application has been



dismissed only on the ground that a cognizance order can only be quashed by the Hon'ble High Court exercising jurisdiction under Section 482 of the Code of Criminal Procedure, 1973. Apparently, the same is erroneous and without application of mind and thus the same is fit to be quashed.

6. On the other hand, learned A.P.P. for the State and learned counsel appearing on behalf of the informant/Opposite Party No. 2 have vehemently opposed the arguments advanced on behalf of the petitioners and supported the impugned order.

7. Chapter XXX of the Code of Criminal Procedure deals with revisional jurisdiction of certain courts. Sections 397 of the Code empowers Sessions Courts and High Courts to exercise revisional jurisdiction by calling for and examining the records of an inferior court for the purpose of satisfying as to the legality or propriety of any finding, sentence or order recorded, imposed or passed by such inferior court.

8. If any defect, illegality or irregularity is found by the revisional court, revisional court is empowered to pass appropriate order to remove or to correct defects, pure illegalities or irregularities and to prevent miscarriage of justice. Thus, the revisional powers of the sessions courts are coextensive with the power of the High Court under Section 401



of the Code.

9. Sub-Section (2) of Section 397 of the Code bars the exercise of revisional power in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding. Orders dismissing a complaint, discharging accused, taking or refusing to take cognizance, granting interim maintenance, appointing receiver, framing or refusing to frame charge against the accused, granting or refusing to grant withdrawal from prosecution, condoning or refusing to condone delay in initiating criminal proceedings, order closing evidence, handing over custody of person or possession of property pending proceedings, etc., cannot be said to be interlocutory orders and, therefore, revision application would lie against them.

10. In view of the aforesaid facts and circumstances of the case and in view of the provisions of Section 397 of Cr.P.C., the order of the learned Sessions Judge, Bhojpur, Ara, dated 21.06.2022 passed in Criminal Revision No. 71 of 2021, is absolutely illegal, erroneous and improper.

11. Accordingly, the order dated 21.06.2022 passed by the learned Sessions Judge, Bhojpur, Ara, in Criminal Revision No. 71 of 2021, is hereby quashed. The matter is remanded back to the learned Sessions Judge, Bhojpur, Ara, to pass fresh order,



after hearing the parties, in accordance with law.

12. Accordingly, this quashing application is partly
allowed.

(Prabhat Kumar Singh, J)

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