

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 520 of 2019

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

1. Meena Devi Wife of Late Dashrath Sharma @ Kripanand Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
2. Naveen Kumar Son of late Dashrath Sharma @ Kripanand Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
3. Nikku Kumar Son of Late Dashrath Sharma @ Kripanand Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
4. Mangesh Kumar Son of Late Dashrath Sharma @ Kripanand Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
5. Shambhu Sharma Son of Late bani Lal Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
6. Ghyanchand Sharma Son of Late Bani Lal Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
7. Brajesh Sharma Son of Rekhichand Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
8. Gena Sharma @ Gainu Sharma Son of Late Yogendra Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
9. Kari Sharma Son of Sukan Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
10. Most Mahasher W/o Late Upendra Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
11. Ram Kishun Sharma Son of Bikha Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
12. Bahadur Sharma Son of Late Jainal Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
13. Kalanand Sharma Son of Gultan Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
14. Mangal Sharma Son of Fekan Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
15. Hai Lal Sharma Son of Rasik Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
16. Shiv Narayan Sharma @ Narayan Sharma Son of Rasik Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
17. Gajendra Sharma Son of Ram Khelawan Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
18. Bilendra Sharma Son of Late Jagdish Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
19. Sikendra Sharma Son of Late Jagdish Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
20. Bijendra Sharma Son of Shivchandra Sharma Resident of Gram- Harinaha,



P.S.- Jadia, Distt.- Supaul.

21. Basudeo Sharma Son of Shivchandra Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
22. Parmeshwari Sharma Son of Late Sokhi Sharma Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
23. Dharmdeo Sharma Son of Satya Narayan Shara Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.
24. Brahemdeo Sharma Son of Satya Narayan Shara Resident of Gram- Harinaha, P.S.- Jadia, Distt.- Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Collector of the District, Supaul
3. Deputy Collector Land Reform, Triveniganj, Dist.- Supaul
4. Sub Divisional Magistrate, Triveniganj Bihar
5. Anchal Adhikari, Triveniganj
6. Pranav Kumar Son of Late Deep Narayan yadav Resident of Village - Harinaha, P.s.- Jadia, Distt.- Supaul.
7. Rupesh Kumar Son of late Deep Narayan Yadav Resident of Village - Harinaha, P.s.- Jadia, Distt.- Supaul.
8. Padam Parag Son of Late Deep Narayan Yadav Resident of Village - Harinaha, P.s.- Jadia, Distt.- Supaul.
9. Sachitanand Yadav Son of Late Shiv Nandan Yadav Resident of Village - Harinaha, P.s.- Jadia, Distt.- Supaul.
10. Mohan Yadav Son of Late Baldeo Yadav Resident of Village - Harinaha, P.s.- Jadia, Distt.- Supaul.
11. Md Sajjad Son of Late Md. Dukha Resident of Village - Harinaha, P.s.- Jadia, Distt.- Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kumar Malendu
For the Respondent/s : Mr.Ashok Kumar

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 07-08-2024

Heard.



2 Petitioners have preferred this petition for setting aside the order dated 17.11.2017 passed by the Sub Divisional Magistrate, Triveniganj in Miscellaneous Case No 470 of 2014 whereby the proceeding under Section 145 of the Cr P C has been concluded against the petitioners.

3 Learned counsel for the petitioners would submit that on the basis of letter dated 25.07.2014, a proceeding under Section 145 of the Cr P C has been initiated. According to the counsel, at that time, a proceeding under Section 48E (1) of the B T Act was already pending between both the parties but without considering this fact, the learned Court below erroneously held that the proceeding under Section 48E (1) of the B T Act has already been dropped and passed the impugned order which is bad in law. Reliance has been placed by the counsel on the judgment passed by this Court in the matter of Jai Prakash Rai & Another -Verus- Bans Lal & Others, reported in 1976 SCC Online Patna 87.

4 In the said referred judgment, a question has to be answered by the Court that as to whether during the pendency of Bataidari case under Section 48E of the B T Act, a proceeding under Section 145 of the Cr P C can be drawn up? Answering the said question, this Court held in paragraph 11 thus:

11. Under the aforesaid circumstances, I am of the view that during the pendency of the



proceeding under Section 48E of the Act, a criminal court can take only such action, as may be necessary, for preventing breach of the peace, till the proceeding under Section 48E is finally decided and this will include a proceeding under Sections 144, 107 or exercise of any other power vested in the criminal court for preventing breach of the peace. In my opinion, the learned Sub Divisional Magistrate knowing full well that a proceeding under Section 48E of the Act was pending, should not have initiated a proceeding under Section 145 of the Code for the purpose of deciding the identical dispute which was pending before a special and exclusive forum under the provisions of the Act whose decision is final and cannot be questioned even in a civil court.”

5 As observed by this Court in the above referred judgment, it makes clear that during pendency of the proceeding under Section 48E of the B T Act, the proceeding under Section 145 of the Cr P C could not have been initiated. According to the pleadings of the petitioners, on the date of institution of proceeding under Section 145 of the Cr P C, there was a proceeding already pending under Section 48E of the B T Act.

6 Annexure R/4, which has been submitted in the counter affidavit dated 23.07.2024, also shows that at the time of initiation of proceeding under Section 145 of the Cr P C, the Bataidari Case No 1 of 1986-1987 was already pending and at present, the matter is pending for constitution of Board under Section 48E (3) of the B T Act.



7 Looking to the above, the impugned order is liable to be and is hereby set aside on this ground alone.

8 Accordingly, this revision petition is allowed.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.08.2024
Transmission Date	20.08.2024

