

SRI NARENDRA KUMAR SINGH and ORS.

... .. Petitioner/s

Versus

RAGISTRAR OF COMPANIES, BIHAR

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Jitendra Singh, Adv.

For the Respondent/s : Mr.Harendra Prasad Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

31 07-03-2024 Heard learned counsel for the petitioners and
learned counsel for the ROC.

2. Counsel for the petitioners submits that the present company petition has been filed for seeking relief in the light of Section 633(2) of the Companies Act, 1956 (hereinafter referred to as ‘the Act of 1956’).

3. Counsel submits that section 633(2) of the Act of 1956 clearly mentioned that :-

“Where any such officer has reason to apprehend that any proceeding will or might be brought against him in respect of any negligence, default, breach of duty, misfeasance or breach of trust, he may apply to the High Court for relief and the High Court on such application shall have the same power to relieve him as it would have had if it had been a Court before which a



proceeding against that officer for negligence, default, breach of duty, misfeasance or breach of trust had been brought under sub-section (1).”

4. In response, counsel for the ROC submits that the present company petition is pending since 2002. There was no stay granted in favour of the petitioners and in compliance of the law, the ROC has filed criminal complaint case against the officials who are petitioners here.

5. In this background that the criminal case has already instituted by ROC, the present company petition filed under section 633(2) of the Act of 1956 has now become infructuous.

6. Counsel for the petitioners submits that a short adjournment may be granted to verify that whether the complaint petition which has been filed by the ROC, is still pending or disposed off.

7. In the light of the submissions made by the parties, this Court is of the firm view that there is no need to keep pending the present petition either on the ground of pendency of the complaint petition or on the ground of disposal of the complaint.

8. As such, this company petition No.11 of 2002 is



hereby disposed off, granting liberty to the petitioners that if complaint petition is pending then they shall be at liberty to defend themselves in the complaint case or take other recourse available under law to him during pendency of the complaint case.

9. However, this order shall be operative only when the complaint case is pending. When the complaint case has already disposed off then there is no need for the petitioners to sue further.

(Dr. Anshuman, J.)

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