

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.538 of 2024

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

Ramesh Chandra Thakur, Son Of Rama Nand Thakur, Village- Trilochanpur
Teswara, Ps- Muffasil, Dist- Samastipur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Dipu Singh, Son Of Ranbansh Singh, Village- Adarsh Nagar, Ps- Muffasil,
Dist- Samstipur
3. Sonu Kumar, Son Of Rajbansh Singh, Village- Adarsh Nagar, Ps- Muffasil,
Dist- Samstipur
4. Vikash Kumar, Son Of Rajnash Singh, Village- Adarsh Nagar, Ps- Muffasil,
Dist- Samstipur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Pranav Kumar, Advocate Mr.Rajeev Ranjan No. II, Advocate Mrs.Kumari Semma Singh, Advocate Mrs.Kumar Rupa, Advocate
For the State	:	Mrs.Asha Kumari, APP
For the Respondent Nos.2 to 4	:	Mr.Abhay Shanker Singh, Advocate Mr.Akshansh Shanker, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 06-05-2025 The petitioner has approached this Court in revision assailing an order dated 9th of February, 2022 passed by the learned Additional District & Sessions Judge-VII, Samstipur in Cr. Revision No. 518 of 2015 whereby and whereunder he allowed the said revisional application filed by the opposite parties and quashed a proceeding under Section 133 of the Cr.P.C. without serving any notice to the petitioner.

2. Pursuant to notice, opposite parties have entered



appearance through Mr. Abhay Shanker Singh, learned Advocate.

3. The dispute relates to an unauthorized construction blocking 10 feet wide public road running in between the residential flats of the petitioner and the opposite parties. It was alleged that the opposite parties were making some construction, causing partial blockage of the said public road. The petitioner informed the matter to police. On the basis of a police report, the S.D.M., Samstipur, initiated a proceeding under Section 133 of the Cr.P.C., which was registered as M.R. No. 239 of 2015. In the said proceeding, the opposite parties were directed to show cause as to why they would not be prohibited from making any unauthorized construction over the said public road. The opposite parties moved in revision before the learned Sessions Judge, Samstipur, against the aforesaid order dated 5th of June, 2015, by virtue of which the opposite parties were notified to show cause as to why prohibitory order would not be passed. The said revision was filed even without making the petitioner as one of the opposite parties. The said revision was registered as Cr. Revision No. 581 of 2015. The revisional application was transferred to the Court of learned Additional Sessions Judge, VII, Samstipur and he, even without



service of notice to the petitioner, who was the opposite party in the said revision, allowed the revisional application and set aside the order dated 5th of June, 2015, passed by the learned SDM, Samstipur.

4. The learned Advocate for the opposite party, in all fairness, submits that the petitioner ought to have been made party in the above-mentioned revisional application and notice ought to have been served upon him before the disposal of the revisional application. Therefore, he submits that the matter may be remanded to the Court below with specific direction to the opposite parties to add the petitioner as one of the opposite parties with a direction to dispose of the said revision afresh, given the opportunity to the petitioner of being heard.

5. Having heard the learned counsels for the parties and on perusal of the order dated 5th of June, 2015, passed by the learned SDM, Samstipur, in M.R. Case No. 239 of 2015, this Court finds that the order notifying the opposite parties to show cause is an interlocutory order and no revision lies against an interlocutory order in view of the provision contained in the proviso to Section 397 (2) of the Cr.P.C..

6. For the reasons stated above, the order passed by the learned Additional Sessions Judge, VII, Samstipur on 9th of



February, 2022 in Cr. Revision No. 581 of 2015 is set aside.

7. The M.R. Case No. 239 of 2015 under Section 133 of the Cr.P.C. is restored.

8. The learned SDM, Samstipur is directed to dispose of the proceeding under Section 133 of the Cr.P.C. after having the reply to the show cause from the opposite parties in accordance with law.

(Bibek Chaudhuri, J)

uttam/-

U			
---	--	--	--

