

IN THE HIGH COURT OF JHARKHAND, RANCHI

Cr.M.P. No. 2747 of 2013

Pancham Kumar and Others Petitioners
 -- Versus --
 The State of Jharkhand and Another Opposite Parties

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioners :- Mr. Nehru Mahto, Advocate
 For the State :- Mr. Vishwanath Ray, Advocate
 For the O.P.No.2 :- Mr. Preetam Mandal, Advocate

11/31.10.2023 Heard the learned counsel appearing for the petitioners, the learned counsel appearing on behalf of the respondent State and the learned counsel appearing on behalf of the O.P.no.2.

2. This petition has been filed for quashing of the order dated 04.09.2013 passed in Cr. Rev. No.191 of 2011 as well as the order passed by the learned Sub Divisional Magistrate, Ramgarh dated 17.09.2011 passed in Miscellaneous Case No.01 of 2011 whereby the proceeding under section 147 Cr.P.C has been dropped by the learned Sub Divisional Magistrate, Ramgarh.

3. The learned counsel for the petitioner submits that the learned Sub Divisional Magistrate by the impugned order has been pleased to drop the proceeding which is not in accordance with law. He submits that virtually he recalled his order by which he has initiated the proceeding under section 147 Cr.P.C. He submits that in the Cr.P.C the learned court is not empowered to recall the order and refers to section 362 Cr.P.C. He further submits that the revisional court has also erred in passing the order and has affirmed the order of the learned Sub Divisional Magistrate, Ramgarh.

4. The learned counsel appearing on behalf of the O.P.No.2 submits that the land in question is in possession of the O.P.No.2 and belatedly the revision was preferred against the order of the learned Sub Divisional Magistrate. He submits that the said order is not the emergent one and at this stage, no interference may kindly be made by this Court

as the revisional order is a speaking order.

5. The learned counsel for the respondent State submits that the order has been rightly passed.

6. In the impugned order of the learned Sub Divisional Magistrate, Ramgarh, it has been observed that concealing the fact the said petition was filed by the petitioner and on the basis of that the proceeding was initiated. The police report was considered by the learned court wherein it has been disclosed that the petitioners were using different road, however, to find out the short-cut for reaching the place, the present case has been filed. Sub-section 3 of section 147 Cr.P.C clearly stipulates that such right is exercisable at all times of the year unless such right has been exercised within three months next before the receipt under sub-para 1 of the report of the police officer or other information leading to the institution of the enquiry or where the right is exercisable only on particular reason or on particular occasions. Unless the right has been exercised during the last of such seasons or in last of such occasion before such receipt. In the police report, it has been observed in the Sub Divisional Magistrate order, it appears that the petitioners were using the different road for reaching the place whereas to find out a short-cut road, the present case has been filed.

7. In view of the provisions made under section 147 Cr.P.C, there is no illegality in the impugned order passed by the learned Sub Divisional Magistrate, Ramgarh and the learned Sessions Judge in Cr. Rev. No.191 of 2011, no case of interference is made out.

8. Cr.M.P. No.2747 of 2013 is dismissed.

9. If further any emergent situation is there, the law will take its own course.

10. Pending petition if any also stands disposed of accordingly.

(Sanjay Kumar Dwivedi, J.)

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