

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70645 of 2023

Arising Out of PS. Case No.-190 Year-2010 Thana- AIRPORT District- Patna

-
-
1. Smt. Rabri Devi, W/O Lalu Prasad Yadav Resident Of 10 Circular Road, Ps. Secretariat, Dist. Patna, Bihar
 2. Sri Lalu Prasad Yadav @ Lalu Prasad S/O Late Kundan Rai Resident Of 10 Circular Road, Ps. Secretariat, Dist. Patna, Bihar

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ashok Kumar Singh S/O Late Lalan Singh Village- Barka Louhar, Ps.Barhara, Dist. Bhojpur

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Y. V. Giri- Sr. Advocate
Mr. Pranav Kumar- Advocate
Mr. Ashish Giri- Advocate
Ms. Shrishti Singh- Advocate
Mr. Sumit Jha- Advocate
Ms. Riya Giri- Advocate
For the State : Mr. Chandra Bhushan Prasad- A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 25-01-2024 Heard learned senior counsel for the petitioners and learned APP for the State.

2. The learned senior counsel for the petitioners submits that the present quashing application has been filed seeking quashing of the order dated 25.05.2012 passed by the learned Chief Judicial Magistrate, Patna in Hawaii Adda P. S. Case No.190 of 2010, whereby cognizance of offence under Section 188 of the I.P.C. read with Section 131 of the Representation of People Act, 1951 has been taken.



3. The learned senior counsel for the petitioners submits that in the nature of allegation as alleged in the F.I.R., prima facie no offence either under Section 188 of the I.P.C. is made out, nor any offence under Section 131 of the Representation of People Act, 1951 is made out. The learned senior counsel next submits that Section 188 of the I.P.C. incorporates disobedience to order duly promulgated by public servant, but then, the F.I.R. does not even remotely suggest that as to which order promulgated by a public servant was breached by the petitioners, herein. It is further submitted that even if any order was breached, which was duly promulgated, in that event, the remedy before the informant was to file a complaint and not an F.I.R. It is further submitted that ***Section 131 of the Representation of People Act, 1951*** incorporates:-

"131. Penalty for disorderly conduct in or near polling stations.—

(1) No person shall, on the date or dates on which a poll is taken at any polling station,—
(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such



as a megaphone or a loudspeaker, or

(b)shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2)Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine or with both.

(3)If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4)Any police officer may take such steps, and use such force, as may be reasonably necessary for preventing any contravention of the provisions



of sub-section (1), and may seize any apparatus used for such contravention."

4. The learned senior counsel thus submits that from bare perusal of the provision of Section 131 of the Representation of People Act, 1951, it would manifest that none of the provisions of Section 131 of the Representation of People Act was violated in the nature of allegation as alleged.

5. The learned senior counsel further submits that the petitioners had filed an application before the learned trial Court under Section 258 of the Cr.P.C. seeking stopping of the trial on the ground that the order of cognizance was bad for the reason that it was taken after the period of limitation was over, but the said application came to be rejected, which was challenged before the learned Special Judge, MP/MLA, Patna in Cr. Revision No.163 of 2023, but then, the Cr. Revision No.163 of 2023 was also dismissed affirming the order passed by the learned Magistrate whereby the application seeking to stop the trial was dismissed.

6. The learned senior counsel thus submits that since the order of cognizance was not interfered on the ground that it was taken beyond the period of limitation, as such, the present quashing application has been filed seeking quashing of the



order taking cognizance.

7. The learned Additional P. P. Mr. Chandra Bhushan Prasad seeks four weeks' time for filing counter-affidavit.

8. Put up this case on 11.03.2024.

9. In the meantime, further proceedings before the learned trial Court in connection with Hawaii Adda P. S. Case No. 190 of 2010 **shall remain stayed**.

(Satyavrat Verma, J)

vikash/-

U		T	
---	--	---	--

