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**(2014) 11 CAL CK 0022**  
**In the Calcutta High Court**  
**Case No : C.R.R. No. 2998 of 2014**

Balai Seth

APPELLANT

Vs

Sukesh Pradhan

RESPONDENT

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**Date of Decision :** 11-11-2014

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 144, 397

**Citation :** (2014) 11 CAL CK 0022

**Hon'ble Judges :** Ashim Kumar Roy, J

**Bench :** Single Bench

**Advocate :** Sanjoy Ghosh and Giasuddin Mulla, Advocate for the Appellant

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## Judgement

Ashim Kumar Roy, J.—The subject matter of challenge, in this criminal revision, is an order passed in connection with a proceeding under section 144 Cr.P.C. The petitioner challenged the said order before the Sessions Court and lost there. Hence, this criminal revision.

2. To start with, the order impugned is quoted below:-

"Ld. Adv. of the F/P appeared & perused the petition. Perused o/c p/pm & BL & LRO O/PM are to submit PR & BR by not dt. of hearing.

Meanwhile O/C P/PM is directed to maintain peace over the suit land & both parties are hereby restrained to cultivate over the suit land."

3. It is the case of the petitioner that he is a patta-holder of the land in question. Therefore, not only, he has every right of access to the said land but also to cultivate the same. However, because of the order impugned, he has been denied of such right and no opportunity of hearing was given to him before passing such order. It is contended that this is a case of clear violation of principle of natural justice.

4. Having regard to the order impugned, I find the same was absolutely interlocutory in nature. Both the parties have been restrained to cultivate the

land to maintain the peace in the locality. Therefore, by no stretch of imagination it can be said by the impugned order, while the petitioner's right has been adversely affected, the opposite party has been benefited by virtue thereof. The petitioner without availing his remedy under sub-section (5) of Section 144 Cr.P.C., moved the Sessions Court and failing there, has come before this High Court.

5. Not only on the face of the specific statutory bar contained in sub-section 2 of section 397 Cr.P.C., the order impugned being an interlocutory order and still to reach its finality, the said order cannot be challenged in a criminal revision. It also be noted that the prohibition against second revision imposed under subsection 3 of section 397 Cr.P.C., is also attracted in this case. No case has been made out to show that the order impugned is illegal, unreasonable, perverse or brings out a situation which is completely an abuse of process of court. Thus, question of interfering with the order impugned does not at all arise.

6. This criminal revision has no merit and accordingly stands dismissed.

7. Urgent photostat certified copy of this order, if applied for, be made available to the parties at an early date.