

(1921) 10 PAT CK 0003

In the Patna High Court

Mahant Saturhan Das and Another

APPELLANT

Vs

Makhan Das and Others

RESPONDENT

Date of Decision : 19-10-1921

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 14, 144, 145

Citation : AIR 1921 Patna 468 : 72 Ind. Cas. 171

Hon'ble Judges : Das, J

Bench : Single Bench

Judgement

Das, J.—This application is directed against an order, passed by they learned Deputy Commissioner of Hazaribagh 611 the 22nd July last. It appears that there are considerable disputes between the parties in regard to Chauni Akhra,, and Maulvi Riyassik Karim, one of the Magistrates in Hazaribagfh, drew up proceedings, u/s 144 of the Criminal Procedure Code against both the parties. The matter came up before the learned Deputy Commissioner u/s 144, Clause (4), and he rescinded the order passed by the learned Deputy Magistrate u/s 144 and directed the learned Deputy Magistrate to draw up proceedings u/s 145. Mr. Nandkeolyar appearing on behalf of the petitioners urges before me first that the learned Deputy Commissioner had neither revisional nor appellate jurisdiction in the matter and that, consequently, his order ought to be pet aside and, secondly, that he had no jurisdiction to direct the learned Deputy Magistrate to draw up proceedings u/s 145 of the Code. Now, it may be conceded at once that there is neither revisional nor appellate jurisdiction in the Magistrate under Clause (4) of Section 144 of the Code, but there is still a jurisdiction to rescind or alter any order made u/s 144 either by himself or by a Magistrate subordinate to him or by his predecessor-in-office. It seems to me that it is useless to enter into, a controversy as to the exact jurisdiction exercisable by the Magistrate under Clause (4). It is sufficient to say that it is a special jurisdiction under special Statute and the Statute gives him ample power to rescind or alter any order made u/s 144 either by himself or any Magistrate subordinate to him or by his predecessor-in-office. The learned Deputy Commissioner was satisfied that there

was a question of possession to be tried between the parties and in my opinion, he was entirely right in rescinding the order passed by the learned Deputy Magistrate.

2. The next point is, had he any jurisdiction to direct the learned Deputy Magistrate to draw up proceedings u/s 145 of the Code? It seems to have been held in various cases that he has no such power, but in my opinion the point is without any substance. It is merely a question of words nothing more than that. The proper order to pass in such a case would be to say that if the learned Deputy Magistrate thinks that any action is still necessary he will proceed u/s 145 of the Code and not u/s 144. If no action has in the meantime been taken either by the learned Deputy Commissioner or by the learned Deputy Magistrate, then the learned Deputy Magistrate will proceed u/s 145 of the Code if he considers that it is still necessary to proceed in the matter.