

(1998) 01 PAT CK 0061

In the Patna High Court

Case No : Criminal Miscellaneous No. 14388 of 1992

Shaukat Ali and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 21-01-1998

Acts Referred:

Bihar Panchayat Raj Act, 1947 — Section 73
Penal Code, 1860 (IPC) — Section 147, 323, 504

Citation : (1998) 1 PLJR 893

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Manu Shankar Mishra, for the Appellant; Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Narayan Roy, J.—Heard learned Counsel for the Petitioners and the learned Counsel for the State. However, no one appears on behalf of opposite party No. 2.

2. By this application, the Petitioners have prayed for quashing the order dated 21.9.1992 passed by the learned Additional Chief Judicial Magistrate, Pakur whereby and where under the learned Magistrate has taken cognizance of the offence under Sections 147, 323 and 504 of the Indian Penal Code which are exclusively triable by a Bench of the Gram Cutcherry.

3. It is submitted by learned Counsel appearing on behalf of the Petitioners that since the offences as alleged are exclusively triable by a Court of Gram Cutcherry and the learned Magistrate even though he has cancelled the jurisdiction of the Gram Cutcherry has not assigned sufficient reasons for doing so, the order impugned cannot be allowed to sustain in law.

4. I have perused the order impugned. Form the order impugned it appears that the learned Magistrate while taking cognizance of the offence has merely stated in his order that the jurisdiction of the Gram Cutcherry is cancelled. It is settled

that the learned Magistrate has jurisdiction to cancel the jurisdiction of the Gram Cutcherry as envisaged u/s 73 of the, Bihar Panchayat Raj Act, 1947 but at the same time it was incumbent upon the learned Magistrate to disclose his satisfaction as to under what circumstances he was cancelling the jurisdiction of the Gram Cutcherry. In ordinary course, when the offences are exclusively triable by Gram Cutcherry, cognizance of the offence cannot be taken by the learned Magistrate unless it is shown by the complainant that there shall be miscarriage of justice at the hands of Panches. There is nothing in the order impugned to show that there was any allegation of miscarriage of justice at the hands of the Panches of the Gram Cutcherry nor is there anything in the order impugned to show that the learned Magistrate has shown his satisfaction for doing so. In that view of the matter, the order impugned, in my opinion, is not sustainable in law and is liable to be quashed.

5. I, therefore, allow this application, quash the order impugned and remit back the matter to the learned Magistrate for passing necessary orders in accordance with law. It is made clear that if no allegation has been made by the complainant about the miscarriage of justice at the hands of the Ranches of the Gram Cutcherry, the learned Magistrate shall forward the complaint petition to the Gram Cutcherry for proceeding with the matter in accordance with law.