

In the court of , Additional Sessions Judge- III
District- Gopalganj (Bihar)

Criminal Revision No- 926 of 2020

Present:-Dinesh Kumar,
Addl. Sessions Judge- III
District - Gopalganj.
Date of Order 09.02.2021

In the matter of :-

Lalan Rai

.....Revisionist.

Versus

The State of Bihar

.....Opposite Parties

Ld. Counsel for the Revisionist :- Sri Vijay Pratap Singh, Adv.
Ld. Counsel for the State :- Addl. Public Prosecutor.

(Revision against the order dated 27.08.2020 passed by Ld.
S.D.M, Gopalganj, in case no. 2034 of 2020 in proceeding u/s.
107 of Cr.P.C)

O r d e r

1. This Revision petition has been preferred against the order dated 27.08.2020 passed by the learned S.D.M., Gopalganj in Case No. 2034 of 2020 U/s. 107 Cr.P.C., whereby and whereunder the learned S.D.M., Gopalganj has initiated the proceeding U/s 107 of Cr.P.C. against the second parties(revisionist) and directed him to appear and file his respective show cause as to why he should not be ordered to execute Bond of Rs. 1,00,000/- to maintain peace and tranquility.

2. From perusal of the case record, I find that this Criminal revision petition along with C.C. of order of learned S.D.M. has been filed by the revisionist on 24.11.2020 before the learned Sessions Judge, Gopalganj against the order passed by learned S.D.M., Gopalganj dated 27.08.2020 and the same was admitted on 25.11.2020 and learned Sessions Judge, Gopalganj has been

pleased to transfer this revision in my Court on 26.11.2020 for disposal.

3. Heard the Ld. Counsel for the revisionist as well as Ld. Additional Public Prosecutor for the State. Ld. Counsel for the revisionists has submitted that the impugned order is bad in the eye of the law and facts and is based on mere surmises and conjectures. The Ld. Court below has not complied with the mandatory provision of section 111 Cr.P.C. and 114 Cr.P.C. It is further submitted that Ld. Court below has blindly relied upon the police report and passed improper order without sufficient material for drawing of the proceeding. That Ld. Court below ought to have demanded the documents from the O.P. regarding apprehension of the peace at the spot and then pass any order. That no any over act has been assigned against the revisionist. Hence, prayed to set aside the impugned order.

On the other hand Ld. Add. P.P. for the State has submitted that there was apprehension of peace due to which Ld. Court below initiated the aforesaid proceeding on the police report, which does not required any inference at this stage.

4. Proceeding u/s 107 Cr.P.C. is preventive measure for public peace and tranquility and not punitive in nature. A Magistrate has power to drop the proceeding initiated under this section at any stage as soon as he satisfied that there is no danger of a breach of peace. Section 107 contemplate that the person who is likely to cause breach of peace is to bound. A show cause notice issued for initiation of proceeding u/s 107 Cr.P.C. is an interlocutory order, would not be interfered in revision. If any person is likely to commit breach of peace to disturb the public tranquility, the provision 107 Cr.P.C would be attracted.

5. Having heard both the parties and on perusal of the record

it appears that the Ld. Court below has passed the impugned order dated 27.08.2020, which is in printed Performa in which someone else has inserted words in the space **“Sidhwaliya”** **“Faujdari Mukadama Darj Hone Ke Bad Tanaw Hai”** and all the words written in blank space are in someone else hand writing. The sheet is in printed Performa on which the Ld. Magistrate has signed the order shows the facts and circumstances and conditions in which circumstances the Ld. Magistrate has applied the mind. Meaning thereby that the Ld. Magistrate has not applied his judicial mind while passing the order and the impugned order dated 27.08.2020 shows the nature that the order is cryptic one without application of mind, without showing any reason and without considering the facts and circumstances of this case.

6. From the discussions made above, this court comes to the conclusion that the impugned order dated 27.08.2020 is cryptic one, has not force in law, based on without reason and without application of mind.

7. Considering the aforesaid facts and circumstances, I do not find any merit in the impugned order dated 27.08.2020. Hence, the impugned order dated 27.08.2020 passed by Ld. S.D.M., Gopalganj u/s 107 Cr.P.C. is set aside.

Accordingly, this revision petition is disposed off.

Let a copy of this order along with L.C.R. be sent to the court concerned within prescribed period.

(Dictated & corrected by me)

Additioanl Sessions Judge-III,

Gopalganj

Dated 09.02.2021

Additional Sessions Judge-III,

Gopalganj

Dated 09.02.2021