
(1976) 10 PAT CK 0001
In the Patna High Court

Chander Choudhary and Others

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 21-10-1976

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107

Citation : (1977) CriLJ 784

Hon'ble Judges : P.S. Sahay, J

Bench : Single Bench

Judgement

P.S. Sahay, J.—This application has been tiled by 18 petitioners against the order of Shri U.C. Thakur, Magistrate, 1st Class, Khegria. directing the petitioners to execute ad-interim bond of Rs. 2,000/-with one surety each of like a mount till the pendency of the proceedings by his order dated 8-12-1969.

2. On receipt of a police report dated 5-8-1968, a proceeding u/s 107 of the Code of Criminal Procedure was started against the petitioners who were the first party and also Rajpati Rai and others who were the members of the second party. On 26-10-1968, there was a fresh police report for taking action u/s 117(3) of the Code of Criminal Procedure against the petitioners and also against Rajpati Rai and others. On 8-12-1969, the Magistrate passed the impugned order directing both parties to execute bonds about which I have stated above. The petitioners moved the Sessions Judge, Monghyr, for making a reference to his court which was rejected on 13-2-1974 and hence this application in revision by the petitioners.

3. Shri Madhusudan Singh, learn-Counsel appearing for the petitioners, has submitted that the order directing the petitioners to execute the interim bond u/s 117(3) of the Code of Criminal Procedure is completely illegal and unjustified, because the learned Magistrate has not assigned any reason as to why he had taken up such an emergency step and a routine order has been passed in this case. I have gone through the order dated 8-12-1969 and I think the contention of Mr. Singh is correct. The learned Magistrate has not mentioned any overt act

said to have been committed by the petitioners during the pendency of the proceedings and the order is a routine order which has been deprecated by this Court on a number of occasions. Mr. Singh has also submitted that Rajpati Rai and others had also filed an application for quashing the order dated 8-12-1969 which was allowed in Criminal Revision No. 133 of 1970 on 22-10-1973. In that view of the matter also I think the order of the learned Magistrate should be set aside. The application is, therefore, allowed and the order passed by the learned Magistrate directing the petitioners to execute the bond is hereby set aside.