
(2016) 03 JH CK 0058
In the Jharkhand High Court
Case No : Cr. Revision No. 766 of 2014

Manik Sharma and Ors.

APPELLANT

Vs

State of Jharkhand and Ors.

RESPONDENT

Date of Decision : 09-03-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107, 116(6)

Citation : (2016) 2 AIRJharR 73

Hon'ble Judges : Prashant Kumar, J.

Bench : Single Bench

Advocate : Sanjeev Thakur, Advocate, for the Appellant; S.K. Dubey, A.P.P, Gaurav Abhishek, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Prashant Kumar, J. - This application has been filed for quashing the judgment dated 28.05.2014 passed by learned Sessions Judge, Bokaro in Criminal Appeal No. 42 of 2014, whereby he dismissed the appeal and affirmed the order dated 05.04.2014 passed by Sub-Divisional Magistrate, Chas in M.P. Case No. 348 of 2013 and directed the petitioners to execute bond of Rs. 5,000/- for keeping peace for one year.

2. It is submitted by Sri Sanjeev Thakur, learned counsel for the petitioners that in the instant case proceeding under Section 107 of the Cr.P.C. was initiated on 03.08.2013. Thus, as per Section 116 (6) of the Cr.P.C., the aforesaid proceeding is required to be completed within six months i.e. by 03.02.2014 and on expiry of six months, the said proceeding will automatically terminate, unless the same has been extended by the Magistrate for special reason. It is submitted that from the order sheet of the court below, it is clear that till 03.02.2014, the learned Magistrate has not completed the proceeding, therefore, on that day the proceeding initiated by him expired. It is further submitted that in fact learned Magistrate had extended the proceeding without assigning any reason after the termination of the proceeding, therefore, the entire proceeding of the court

below after 03.02.2014 is wholly without jurisdiction.

3. Learned Additional P.P. and Sri Gaurav Abhishek, learned counsel appearing for the opposite party no. 2, after going through the order sheet of the lower court record, have not disputed the aforesaid factual position.

4. Having heard the submissions of learned counsels for the parties, I have gone through the Lower Court Record. It appears that the proceeding under Section 107 of the Cr.P.C. has been initiated on 03.08.2013. Under the said circumstance, as per the provision contained under Section 116 (6) of the Cr.P.C., the same is required to be completed by 03.02.2014, otherwise the proceeding will automatically terminate by efflux of time. From perusal of the order sheet of the L.C. Record, I find that the proceeding has not been completed till 03.02.2014. Under the said circumstance, the aforesaid proceeding will terminate automatically on that day because the learned Magistrate, has not extended the proceeding by assigning any special reason. Under the said circumstance, the continuation of the proceeding after 03.02.2014 is illegal and the same cannot be extended thereafter. Accordingly, I find that the final order passed in the case on 05.04.2014 and the judgment dated 28.05.2014 of the appellate court suffer from serious illegality. Hence, the same are not sustainable.

5. Accordingly, I allow this revision application and set aside the impugned judgment dated 28.05.2014 of the appellate court as well as the order dated 05.04.2014 passed by the Sub-Divisional Magistrate, Bokaro.