
(1977) 04 P&H CK 0004
In the Punjab And Haryana At Chandigarh

Nasiru and Others

APPELLANT

Vs

The State of Haryana

RESPONDENT

Date of Decision : 06-04-1977

Acts Referred:

Constitution of India, 1950 — Article 227

Criminal Procedure Code, 1973 (CrPC) — Section 107, 116, 150, 151, 482

Citation : (1978) CriLJ 603 : (1977) 2 ILR (P&H) 579

Hon'ble Judges : Rajendra Nath Mittal, J

Bench : Single Bench

Judgement

Rajendra Nath Mittal, J.—This petition u/s 482, Cr.PC (hereinafter referred to as the Code), and Article 227 of the Constitution of India, has been filed for quashing proceedings Under Sections 107, 150 and 151 of the Code pending against the petitioners, in the Court of Sub-Divisional Magistrate, Naraingarh, District Ambala.

2. Briefly the case of the petitioners is that on September 21, 1975 a challan Under Sections 107, 150 and 151 of the Code, was put in the Court of Sub-Divisional Magistrate, Naraingarh, against them, at the instance of one Puran son of Norata of village Gullapur, Tehsil Naraingarh, The petitioners state that an enquiry u/s 116 of the Code is required to be completed within a period of six months from the date of its commencement and in case such an enquiry is not completed the proceedings Under Sections 107, 150 and 151 of the Code, stand terminated. They further state that the Magistrate vide his order dated 24-8-1976, has ordered the enquiry to continue on the grounds that, firstly, the file remained in the Court of Sessions Judge on -account of criminal revision filed by the petitioners, for some time, and secondly, the petitioners did not appear in that Court and warrants had to be issued against them. The petitioners allege that the aforesaid order was without jurisdiction as the Magistrate could not extend time after the proceedings had once terminated.

3. The only question that arises for determination is that if enquiry u/s 107, 150

and 151 of the Code is not completed within a period of six months from the date of commencement of such enquiry, whether the Magistrate can extend the period for enquiry u/s 116(6) of the Code after the expiry of six months. In order to determine the said question, it will be necessary to read the said section:

116(6). The inquiry under this section shall be completed within a period of six months from the date of its commencement, and if such inquiry is not so completed, the proceedings under this Chapter shall, on the expiry of the said period, stand terminated unless, for special reasons to be recorded in writing, the Magistrate otherwise directs;-

Provided that where any person has been kept in detention pending such inquiry, the proceeding against that person, unless terminated earlier, shall stand terminated on the expiry of a period of six months of such detention.

A plain reading of the section goes to show that an enquiry after the expiry of a period of six months from the date of its commencement stands automatically terminated. Once the enquiry comes to an end, the Magistrate is not empowered to revive it. He, however, before termination of the enquiry, can order otherwise for special reasons to be recorded in writing. In case a person has been kept in detention pending an enquiry, the power of enlarging the period of six months has not been given to the Magistrate. The intention of the Legislature is clear from the language of the section that the enquiries in cases u/s 107 of the Code should not unnecessarily be prolonged but be completed within a period of six months and in case it is not done, the enquiry shall stand terminated automatically unless ordered otherwise. If the proceedings u/s 107 of the Code are stayed by the appellate revisional Court, it may be a sufficient ground for extending the period of enquiry within six months of its commencement, but it will not empower the Court to extend the period of enquiry after the expiry of six months. After going through all the provisions, I am of the view that the Magistrate is empowered to extend the period of enquiry beyond a period of six months only prior to the termination of a period of six months and not subsequently.

4. In the present case admittedly the period of enquiry has been extended by, the Magistrate after the expiry of six months which he could not do. Consequently the impugned order is liable to be quashed.

5. For the reasons recorded above, I accept the petition and quash the impugned proceedings.