

(1983) 09 PAT CK 0035
In the Patna High Court

Ramdeo Yadav and Others

APPELLANT

Vs

State of Bihar and Another

RESPONDENT

Date of Decision : 30-09-1983

Acts Referred:

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

Citation : (1985) CriLJ 436 : (1984) PLJR 259

Hon'ble Judges : M.P. Verma, J

Bench : Single Bench

Judgement

M.P. Verma, J.—The revision is against the appellate order, affirming the orders passed by the learned Executive Magistrate directing the petitioners to execute Bonds for keeping peace u/s 107 of the Cr.P.C. (hereinafter referred to as "the Code".)

2. The proceeding was started at the instance of opposite party No. 2 and it is admitted case of the parties that the proceeding was initiated on 3-7-1975 and finally concluded on 17-10-1979, i.e. after more than a period of four years. It is also admitted by the parties that the Magistrate had passed an order in the proceedings on 13-12-1975 for the extension of the same beyond the period of six months on the ground that the breach of peace between the parties was continuing.

3. According to the petitioners, proceedings u/s 107 of the Code automatically terminate on the expiry of the statutory period of six months from the date of its initiation as envisaged in Section 116, Clause (6) of the Code, unless extended by the Magistrate, after assigning special reasons. But such extension will not permit the proceedings to continue for more than six months therefrom.

4. On the other hand, it has been argued by the Counsel for the opposite party that when once a proceeding has been extended by a Magistrate, the limitation of "six months" therefrom does no more exist, and the extension, so granted shall permit the proceedings to be concluded even beyond six months (from the

date of extension) without any further orders for fresh extension of the proceedings during the period before the expiry of six months, of the extended period, and that clause (6) of Section 116 of the Code does not put such limitation.

5. Having given a careful consideration to the language of Section 116(6) of the Code, I find that the intention of the legislation in limiting the period of six months from the date of the initiation of the proceedings had a special significance, i.e. to conclude such an emergent proceedings within a very short time but for which, the very purpose of taking such a proceeding would be defeated. It is just in order to meet some special situation in the proceeding, not being concluded within the statutory period of six months, that the legislation provided for an extension and that too by an order of the Magistrate assigning special reasons therefore and not otherwise. The very scheme and intent behind such an extension pre-supposes an extension not beyond the main statutory period.

6. Taking the worst position that in case the proceedings are not concluded within the extended period, and considering some extraordinary measures, further, extension or extensions may be required, but even those extensions will require further special reasons by the Magistrate, although such repeated extension should be discouraged, since that would be providing unfettered power to a Magistrate to continue the proceedings for an unreasonably long period which is not the purpose of an emergent proceeding. In my view, in no case, can the extension granted by a Magistrate be taken to be a blanket and unfettered extension.

7. Admittedly in the instant case, there was only one extension on 13-12-1975, and that order sheet does not speak of any further extension which will mean that in any event, the proceedings came to an end on 12-6-1976, and its continuance thereafter is absolutely without jurisdiction, with the result that the order dated 17-10-1979 passed by the Magistrate directing the petitioners to execute bonds is without jurisdiction and against the provisions of law.

8. In the result, the orders impugned is set aside.