

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.48826 of 2015

Arising Out of PS.Case No. -151 Year- 2013 Thana -RAMKRISHNANAGAR District- PATNA

Munna Sah Son of Ashok Sah, resident of village - Badi Balia, P.S. - Lakhminia, District - Begusari at present renter of Mantun Yadav, Devi Asthan, Changer, P.S. - Kankarbagh, District - Patna.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

with

Criminal Miscellaneous No.4884 of 2016

Arising Out of PS.Case No. -151 Year- 2013 Thana -RAMKRISHNANAGAR District- PATNA

Hemkant Chaudhary @ Himkant Chaudhery son of Late Jageshwar Chaudhary, resident of village- Haripur, P.S. Bahera, District- Darbhanga

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

Appearance :

(In Cr.Misc. No.48826 of 2015)

For the Petitioner/s : Mr. Vijay Kumar Sinha, Advocate
Mr. Arvind Kumar Srivastava, Advocate
Mr. S.K. Bhatnagar, Advocate

For the Opposite Party/s : Mr. Parmeshwar Mehta(App)

(In Cr.Misc. No.4884 of 2016)

For the Petitioner/s : Mr. Jay Ram Prasad, Advocate
For the Opposite Party/s : Mr. Parmeshwar Mehta, Advocate
Mr. B.N. Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

6 25-02-2016 Heard learned counsel for the petitioners as well as learned A.P.P. for the State.

In pursuance of order dated 17.02.2016, the Senior



Superintendent of Police, Patna is physically present with a show cause over deficiency having perceived during course of compliance of an order dated 22.07.2015 passed in Criminal Miscellaneous No. 13450 of 2015 whereunder trial was directed to be concluded within six months and for that, the learned Additional Public Prosecutor who had undertaken to complete the exercise taking into confidence, the Senior Superintendent of Police, Patna and for that, in case of failure the Senior Superintendent of Police, Patna has been identified to be accountable. Gone through the show cause filed on behalf of Senior Superintendent of Police, Patna. After perusal of the said, it is evident that mere paper work has been taken up at his end with a further explanation as incorporated under para-7 that out of 14 prosecution witnesses who are Police officials, 7 are posted out of administrative control of the Senior Superintendent of Police, Patna. It has further been disclosed under para-8, 9, 10 that up till now only 9 witnesses have been examined. 10 witnesses are yet to be examined and for that, no assurance has been given at the end of the Senior Superintendent of Police, Patna identifying the exact period whereunder those witnesses would be examined.

Purpose for production of physical presence of Superintendent of Police of the district is not to satisfy the whims



of the Court nor the physical presence is to be treated as an opportunity to visit the capital. Physical presence is meant for to ensure compliance of the order, to search out the hurdles as well as to remove the same, in likewise manner to acknowledge the officials towards their constitutional obligation which they are bound to discharge. Furthermore, mere pendency of criminal case, did not give free hand to keep the person behind bar as per their own instinct. After all, a custodial accused has also a constitutional right more particularly relating to speedy trial. Even an accused of heinous crime, cannot be allowed to linger behind bar for infinite period. As such, there should be proper, sincere approach at the end of the prosecution enabling speedy trial by way of producing the witnesses and for that, the Officer-in-Charge is found responsible. The Superintendent of Police is also found duly acknowledged as Officer-in-Charge under the Police Manual whenever his presence happens to be apart from his supervisory power, as head of the District police administration. That means to say, having been so directed by the Court, it happens to be duty of the S.P. to ensure proper compliance and in case, it happens to be regarding speedy trial, then in that event, witnesses are expected at his end without fail. Mere paper work, transmitting this office to that office is not the answer. The answer is by way of production

of witnesses so that trial is to be concluded at an earliest and more particularly, in a specified case, as per direction of the Court.

Though the Senior Superintendent of Police, Patna has explained his conduct and for that elaborately dealt with the show cause under altogether 44 paragraphs but never disclosed the exact time whereunder all the witnesses are to be produced. After all, this happens to be answer of a responsible government official who is duty bound not only to obey the order of the Court rather also accountable for the prosecution.

Petitioners namely Munna Sah of Criminal Miscellaneous No.48826 of 2015 as well as Hemkant Chaudhary @ Himkant Chaudhery of Criminal Miscellaneous No. 4884 of 2016 got their prayer rejected at an earlier occasion vide Criminal Miscellaneous No. 14839 of 2014, and Criminal Miscellaneous No. 16551 of 2014 vide order dated 05.08.2014, as well as Criminal Miscellaneous No.13450 of 2015 on an allegation that in a rented house of Sanjay Singh which was hired by one Ranjit Kumar printing of counterfeit Judicial Stamps, Non Judicial Stamps and Adhesive Stamps etc. were going on and raid was conducted whereupon fake Stamps of value crores of rupees have been seized with the tools, equipment, apparatus relating to printing thereof. Furthermore, both the petitioners along with

others were apprehended at the spot and on account thereof, are under custody since 26.03.2013. Other co-accused are found released on bail. Apart from this, having deficiency at the end of the prosecution, petitioners Munna Sah as well as Hemkant Chaudhary @ Himkant Chaudhery are directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-12th, Patna in connection with Sessions Trial No. 936 of 2014 arising out of Ram Krishna Nagar P.S. Case No. 151 of 2013.

The show cause filed on behalf of Senior Superintendent of Police, Patna is accepted and his personal appearance is dispensed with.

(Aditya Kumar Trivedi, J)

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