

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.637 of 2017

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1. Rajesh Paswan
2. Brijesh Paswan Both Sons of Late Singhasan Paswan Both Resident of Village- Purani Bazar Ward No. 9, Narkatiyaganj, P.S.- Shikarpur, District- West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Kishori Sah, Son of Ramji Sah, Both Resident of Village- Purani Bazar Ward No. 9, Narkatiyaganj, P.S.- Shikarpur, District- West Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Aditya Nath Jha
For the Respondent/s : Mr. Sir Pramod Kumar Pandey

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL JUDGMENT AND ORDER

3 07-08-2017 Heard learned counsel for the parties.

2. The petitioners are aggrieved by an order, dated 24.04.2017, passed by the learned Sessions Judge, West Champaran at Bettiah, in Criminal Appeal No. 03 of 2017, whereby he has refused to interfere with the order, dated 21.10.2016, passed by the learned Executive Magistrate, Narkatiyaganj in case No. 1454M of 2015.

3. By the said order, dated 21.10.2016, the learned Executive Magistrate, Narkatiyaganj, in a proceeding under Section 107 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code) had directed the petitioners to furnish two bonds of Rs. 25,000/- each for maintaining peace under Section



117 of the Code.

4. Learned counsel appearing on behalf of the petitioners has made two submissions. He has firstly submitted, referring to Section 116(6) of the Code that the proceeding initiated under Section 117 of the Code stood terminated after completion of six months from the date of initiation, viz, 24.11.2015 since no order was passed within the said period of six months, by the Executive Magistrate for extending the said period.

5. I do not find much force in the said submission. Termination of a proceeding by operation of Section 116(6) of the Code on completion of six months from the date of initiation is not automatic but it is subject to an order which can be passed by the Magistrate in writing, otherwise. The Magistrate had admittedly passed an order, dated 01.07.2016 extending the said period of six months for passing appropriate orders. Finally, on 21.10.2016, the Magistrate passed the order asking the petitioners to execute security bonds, as indicated above.

6. Learned counsel appearing on behalf of the petitioners has submitted that the police had recommended for restraint order under Section 107 of the Code against both the parties but the Magistrate has directed to furnishing securities bonds for maintaining peace against the petitioners only and for that reason



also, the order requires interference.

7. The Magistrate is not bound by report of the Police. I find from the order, dated 21.20.2016, passed by the Magistrate that he has considered the evidence adduced in course of proceeding under Section 107 of the Code.

8. Upon evaluation of evidence, the Magistrate reached the conclusion that the order under Section 117 of the Code was required to be made against these petitioners. The evidence adduced in course of proceeding before the Magistrate has been reevaluated by the appellate Court. This Court in revisional jurisdiction should not further reevaluate the evidence, which have already been evaluated by the Courts below.

9. Considering the nature of the order passed by the Magistrate, no interference is required.

10. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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