

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.37512 of 2012

=====

1. Manan Mishra @ Manan Kumar Mishra S/O Late Shiv Chandra Mishra
R/O Vill.- Tiwari Kharaiya, P.S.- Kuchaikote, Distt.- Gopalganj

.... Petitioner/s

Versus

1. The State Of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Rama Kant sharma, senior Advocate
Mr. Anjani Prasar, Advocate
Mr. Ashutos Tripathy, Advocate
Mr. Sanjay Kumar Pandey, Advocate
For the State Mr. Nawal Kishore Prasad, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 01-09-2017 Heard learned counsel for the petitioner and learned

A.P.P. for the State.

This application under Section 482 Cr.P.C. has been

filed for quashing the order dated 07.08.2010 passed by

Additional Chief Judicial Magistrate, Bagaha, in Ram Nagar P. S.

Case No. 97 of 2009, Trial No. 257 of 2010 by which cognizance

was taken against the petitioner for the offence punishable under

Section 127 (1) (2) of R. P. Act.

Learned counsel for the petitioner has submitted that

the occurrence is said to have taken place, as per written report, on

20.04.2009 and cognizance has been taken by the learned



Magistrate on 07.08.2010 after lapse of limitation period, which is barred by the limitation under Sections 468 and 469 of the Cr.P.C.

It is alleged in the F.I.R. that on date of occurrence petitioner along with 100 supporters arrived near the office of Sub – Divisional Police Officer, Ram Nagar in procession. The informant made demand of paper giving permission for taking out such procession to which the petitioner replied that he had not taken any permission. The informant has alleged that after election notification, taking out procession, is violation of code of conduct. The case has been registered on the basis of written report of the informant under Section 127 (1) (2) R.P.Act.

The offence under Section 127 (1) (2) R.P.Act is punishable with imprisonment for term, which may extend to period of six months or with fine which may extend to two thousand rupees. Section 127 (1) (2) of R.P. Act lays down as follows:-

- I) “Any person who at a public meeting to which this Section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, (shall be punishable with imprisonment for a term which may extend to (six months or with fine which may extend to two thousand rupees) or with both)



- II) This Section applies to any public meeting of a political character held in any constituency between the date of the issue of a notification under this Act calling upon the constituency to elect a member or members and the date of which such election is held.
- III) If any police officer reasonably suspects any person of committing an offence under Sub Section (1), he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.”

In the instant case, the occurrence has taken place on 20.04.2009. The cognizance has been taken by the Additional Chief Judicial Magistrate, Bagaha after more than one year on 07.08.2010, which is barred by limitation under Section 468 Cr.P.C. Therefore, the impugned order is illegal and not in accordance with law.

In the facts and circumstances of the case, the impugned order dated 07.08.2010 passed by the learned Additional Chief Judicial Magistrate, Bagaha in connection with



Ram Nagar P.S.Case No. 97 of 2009, Trial No. 257 of 2010

alongwith entire criminal prosecution against the petitioner is

hereby quashed.

Accordingly, this CR. Misc. application is allowed.

(Sanjay Priya, J)

Sudha/-

U		T	
---	--	---	--

