

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47366 of 2014

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1. Ashok Kumar Choudhary Son of Late Ram Prakash Choudhary, Resident of Village - Madudabad, Mohiuddinnagar Sub Division Patori District - Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sanjay Kumar Choudhary
3. Rupesh Kumar Choudhary Both Sons of Late Ram Suresh Choudhary Resident of Village - Madudabad, Mohiuddinnagar, Sub Division, Patori, District - Samastipur.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Tiwary, Advocate

For the Opposite Party/s : Mr. Aditya Nr. Singh No.1(App)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

5 19-02-2018 Heard learned counsel for the petitioner and learned A.P.P. for the State.

This application has been filed for quashing the order dated 05.06.2014 passed by learned Sessions Judge, Samastipur in Cr. Revision No. 1297 of 2014 thereby setting aside the order dated 05.05.2014 passed by learned Sub Divisional Magistrate, Patori in M.R. Case No. 80/2013 for further extending period of enquiry under Section 116 (3) Cr.P.C.

Learned counsel for the petitioner submits that without giving an opportunity of hearing to the petitioner, impugned order was passed, whereas learned counsel for the Opposite Party submits that proceeding under Section 107 of Cr.



P. C. was initiated on 28.05.2013 and for first time period of enquiry was extended for three months on 31.01.2014 moreover, second time also the period of enquiry was extended vide order dated 05.05.2014 though the period of enquiry had already lapsed and earlier twice extension of period of enquiry was given without assigning special reason, whereas enquiry under Section 116 (6) Cr.P.C. is to be completed within a period of six months unless extended for three months more but for some special reason in other words in absence of any special reason for extension of period of enquiry , it is mandatory to conclude the same within six months from the date of its commencement.

In case of any special reason, if the enquiry initiated under Section 116 (3) Cr.P.C. is not to be completed within stipulated period of six months from the date of its commencement on expiry of such period stands terminated unless for special reason the period of enquiry is extended and special reason is to be recorded in writing. The said provision is incorporated in Section 116 (6) of Cr. P. C.

Moreover, learned counsel for the State was also heard in the revision application in the court below thereafter, the impugned order was passed.

The extension of period of enquiry by the learned Sub Divisional Magistrate, Patna was arbitrary, without assigning any special reason so rightly the learned sessions Judge set aside the order of further extension of period of enquiry passed under



Section 116 (6) of Cr.P.C., hence, the Court is not inclined to interfere with the impugned order, accordingly, this application stands dismissed.

(Arun Kumar, J)

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