

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.724 of 2019

Arising Out of PS. Case No.- Year-0 Thana- District- Rohtas

1. SOBRATAN KHATOON Wife of Sarif Mian Resident of Village- Semari, P.S.- Dawath, District- Rohtas at Sasaram.
2. Ajmeri Begam @ Usha Khatoon Wife of Afzal Mian Resident of Village- Semari, P.S.- Dawath, District- Rohtas at Sasaram.
3. Md. Afzal Mian @ Md. Afzal Son of Sultan Mian Resident of Village- Semari, P.S.- Dawath, District- Rohtas at Sasaram.
4. Md. Sultan Son of Md. Hafiz Resident of Village- Shah Ke Barahari, P.S.- Kargahar (Barahari), District- Rohtas at Sasaram.
5. Md. Hafiz Son of Late Abdul Rahman Resident of Village- Shah Ke Barahari, P.S.- Kargahar (Barahari), District- Rohtas at Sasaram.
6. Wakil Alam Son of Late Rajak Khalifa Resident of Village- Shah Ke Barahari, P.S.- Kargahar (Barahari), District- Rohtas at Sasaram.
7. Nizamuddin Son of Mustakim Resident of Village- Nonsari, P.S.- Nokha (Dharmapura), District- Rohtas at Sasaram.
8. Md. Sabir Alam Son of Md. Sultan Resident of Village- Nonsari, P.S.- Nokha (Dharmapura), District- Rohtas at Sasaram.
9. Md. Aslam Son of Md. Haffij Resident of Village- Nonsari, P.S.- Nokha (Dharmapura), District- Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Majhar Alam Son of Kalamuddin Resident of Village- Semari, P.S.- Dawath, District- Rohtas at Sasaram
3. Arman Hussain Son of Majhar Hussain Resident of Village- Semari, P.S.- Dawath, District- Rohtas at Sasaram.
4. Sadam Hussain Son of Majhar Hussain Resident of Village- Semari, P.S.- Dawath, District- Rohtas at Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ramchandra Singh, Adv., Mr. Shankar Kumar, Adv., Mr. Radha Krishna, Adv.
For the Respondent/s	:	Mr.Dr.Mrityunjaya Kr.Gautam, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 29-01-2024



Heard learned Advocate for the petitioners as well as learned APP for the State.

2. The instant revisional application is barred by limitation.

3. An application under Section 5 of the Limitation Act is taken up for hearing. It is stated by the petitioners that the petitioners have filed the revisional application on 25th June, 20019, challenging an order dated 16th January, 2019, passed by the learned Additional Sessions Judge-II, Rohtas at Sasaram in Criminal Appeal No. 40 of 2015.

4. It is submitted on behalf of the petitioners that the petitioners applied for certified copy of the Judgment of Criminal Appeal No. 40 of 2015, dated 16th January, 2019, on 30th January, 2019, but it was rejected on 19th February, 2019. Again requisites for certified copy was filed on 8th April, 2019 and it was supplied on 25th April, 2019. Similarly, the petitioners tried to obtain certified copy of the order dated 5th February, 2015, passed by the learned Sub Divisional Magistrate, Bikramganj, Rohtas in Case No. 479 (M) of 2014 in order to get the certified copy, there was delay of about 60 days to file the instant revision.

5. Therefore, the petitioners have prayed for condonation of delay in filing the instant revision.



6. I have heard the learned Advocate for the petitioners.

On perusal of the petition, this Court finds that the petitioners have been able to establish that they were prevented by sufficient cause in filing the instant revision.

7. Accordingly, the delay in filing the instant revision is condoned.

8. The revisional application is taken up for hearing on the point of admission.

9. The instant revision is directed against an order of dismissal of Criminal Appeal No. 40 of 2015, affirming an order under Section 107 of the Cr.P.C., passed by the learned Sub Divisional Magistrate, Bikramganj, Rohtas in Case No. 479 of 2014 on 5th February, 2015, under Section 107 of the Cr.P.C.

10. By passing an order dated 5th February, 2015, the learned Sub Divisional Magistrate, Bikramganj, Rohtas directed the petitioners to deposit bond of good behaviour of Rs.25,000/- each with sureties. The impugned order was assailed mainly on the ground that as per the provision of Section 116 of the Cr.P.C., enquiry in a proceeding under Section 107 of the Cr.P.C. shall be completed within a period of six months from the date of commencement, and if such enquiry is not so completed, the proceedings under Chapter-8 of the Cr.P.C. shall, on the expiry of



the said period, stand terminated unless, for special reasons to be recorded in writing, the Magistrate otherwise directs.

11. In the instant case proceeding under Section 107 of the Cr.P.C. was initiated by the opposite party against the petitioners on 5th July, 2014. The said proceeding was disposed of vide order dated 5th February, 2015, that is after expiry of six months. No special reason was granted by the learned Sub Divisional Magistrate.

12. For the reasons stated above, the instant revision is allowed.

13. The order passed in the proceeding under Section 107 of the Cr.P.C. and the impugned order dated 16.01.2019, passed in Criminal Appeal No. 40 of 2015 are quashed and set aside.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

