

CRIMINAL REVISION

Present: The Hon'ble Justice Ashim Kumar Roy

C.R.R. No. 1283 of 2010

Judgment On : 21-05-2010.

Atanu Saha & Ors.

versus

Jagat Krishna Devnagar & Ors.

POINTS

In-fructuous Order – Prohibitory orders passed by the Learned Magistrate – Life of an order passed under section 144 CrPC – Court if can affirm an order after the expiry of the statutory period – Code of Criminal Procedure 1973, S 144.

FACTS

In this case the initial order was passed by the Learned Executive Magistrate, on 3rd February, 2010 and the same was made absolute on March 24, 2010 and was remain valid until April 5, 2010, when the revisional Court stayed the operation of the said order. Thus, the revisional Court stayed the operation of the aforesaid order passed under Section 144 of the Code of Criminal Procedure, i.e., on 62nd day, i.e., after the expiry of 60 days. Such interim order was then vacated on April 16, 2010 that too after the expiry of 60 days Aggrieved by the same the petitioners moved a revisional application before the Learned Sessions Judge Maldah . The Learned Sessions Judge although initially stayed the operation of the order vacated the same. Both the interim and final order were passed after the expiry of the statutory period.

HELD

Section 144 (4) of the Code Of Criminal Procedure, all prohibitory orders passed there under is to remain valid for a limited duration of 60 days from the date of making such order .

Para 3

When the Learned Sessions Court affirmed the order passed by the Learned Magistrate the said order had already lost its statutory force as a result the instant revisional application had become in-fructuous.

Para 3

For Petitioners : Ms. Sreyashee Biswas

THE COURT 1) In connection with a proceeding under Section 144 of the Code of Criminal Procedure, the Learned Executive Magistrate, Malda on 3rd of February, 2010 passed an ex parte interim restrained order under Section 144 (2) of the Code against the petitioners. Whereby they were directed to maintain status quo as regards to the suit property and on March 24, 2010 after hearing both the sides such restrained order was made absolute.

Aggrieved by the said order the petitioners moved a criminal revision being Criminal Revision No. 18 of 2010 before the Learned Sessions Judge, 2Malda and the Learned Sessions Judge, Malda by his order dated April 5, 2010 stayed the operation of the aforesaid order of the Learned Executive Magistrate. Finally, on April 16, 2010 the Learned Sessions Judge dismissed the said criminal revision and affirmed the aforesaid order passed by the Learned Executive Magistrate, under Section 144 of the Code of Criminal Procedure, on March 24, 2010.

2. Heard Ms. Sreyashee Biswas appearing on behalf of the petitioners.

3. In terms of Section 144 (4) of the Code of Criminal Procedure, all prohibitory orders passed there under is to remain valid for a limited duration of 60 days from the date of making of such order. In this case the initial order was passed by the Learned Executive Magistrate, on 3rd February, 2010 and the same was made absolute on March 24, 2010 and was remain valid until April 5, 2010, when the revisional Court stayed the operation of the said order. Thus, the Court stayed the operation of the aforesaid order passed under Section 144 of the Code of Criminal Procedure,

i.e., on 62nd day, i.e., after the expiry of days. Such interim order was then vacated on April 16, 2010 that too after the expiry of 60 days.

Thus, on the day when the Learned Sessions Court affirmed the order passed by the Learned Executive Magistrate, the said order had already lost its statutory force. In such view of the matter the instant criminal revision has become infructuous and accordingly stands disposed of.

Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)