

CRIMINAL REVISION.*Sanderson C. J., and Walmsley J.**In the matter of* KHETRA MOHAN GIRI.*

1916

June 21.

Criminal revision—Practice—Time-limit of applications to High Court in criminal revision—Application made after the expiry of 60 days from the date of the order.

As a matter of practice the High Court will not, save in exceptional circumstances, entertain an application in criminal revision unless it is made within 60 days, excluding the time necessary to obtain copies, from the date of the order complained of.

THIS was an application by way of motion, under s. 15 of the Charter Act (24 & 25 Vict. c. 104) against an order passed under s. 145 of the Criminal Procedure Code, by the Subdivisional Magistrate of Contai, on the 8th April, 1916. It was presented to the Criminal Bench of the High Court on the 19th June, and heard on the 20th and 21st.

Babu Saroda Charan Mytee appeared for the petitioner and moved their Lordships.

[WALMSLEY J. Are you in time?]

Taking into account the time required to procure the copies, I am in time.

[SANDERSON C. J. Under what law do you deduct the time taken for the copies?]

There is no provision in the Criminal Procedure Code or the Limitation Act (IX of 1908) for such applications, but 60 days' limit has been fixed by analogy to Criminal Appeals, and section 4 of the Limitation Act would apply by reason of the same analogy.

[SANDERSON C. J. Even then the last day expired

* Criminal motion against the order of the Subdivisional Officer of Contai, dated April 8, 1916.

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last Saturday. Why did you not move on the previous Monday?]

On Saturday your Lordships did not sit. It has been presented on the first day your Lordships are sitting since. There is no hard and fast rule of practice that the application must be made within 60 days. If the Bench takes motions once a week, and the last day falls on a holiday, I would in that case have to make the application on the previous motion day, and this would practically curtail the period of 60 days by a week. If I have a just grievance, the application should not be barred simply because it is made a few days late.

SANDERSON C. J. Since yesterday I have caused enquiries to be made with regard to the practice affecting this matter, and I find that the well-known practice is that an application for revision must be made within 60 days from the date of the order complained of. The Court has allowed an addition, to the 60 days, of the time which is necessary for obtaining copies. This is not a question of limitation but a rule of the practice of the Court to the effect that an application for revision must be made within a reasonable time. It is not an inflexible rule, and in exceptional circumstances the rule might be departed from. In this case the date of making over the copy to the applicant was the 1st day of June, so that there was ample time to make this motion on one of the usual motion days, namely, Monday, the 5th of June or Monday, the 12th of June. Yet this motion was not made until the 19th of June when it was out of time. In these circumstances, we are of opinion that this application should not be entertained.

WALMSLEY J. concurred.

E. H. M.

Application refused.