
(2012) 10 CAL CK 0007
In the Calcutta High Court
Case No : CRR No. 472 of 2011

Anand Kumar Singh and Others

APPELLANT

Vs

The State of West Bengal

RESPONDENT

Date of Decision : 17-10-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 482

Citation : (2012) 10 CAL CK 0007

Hon'ble Judges : Dipak Saha Ray, J

Bench : Single Bench

Advocate : Uday Sankar Chattopadhyay and Mr. Suman Sankar Chatterjee, for the Appellant; Yatindra Nath Gupta, for the O.P. No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Dipak Saha Ray, J.—The present case arises out of an application u/s 482 of the Code of Criminal Procedure, 1973 for quashing the proceeding of T.R. Case No. 173 of 2003 corresponding to G.R. No. 250 of 2002 which is pending before the Learned Metropolitan Magistrate, 7th Court, Calcutta. The relevant facts of the present case are, in a nutshell, as follows:

Opposite Party No. 2 herein as defacto-complainant filed a petition of complaint before the Learned Chief Metropolitan Magistrate, Calcutta which was sent to the Officer-in-Charge, Taltala Police Station for investigation after treating of complaint as F.I.R u/s 156(3) of the Code of Criminal Procedure. Accordingly Taltala Police Station Case No. 50 of 2002 dated 30.01.2002 was started. In the said petition of complaint the defacto-complainant has alleged that she was being tortured both mentally and physically by her husband and in-laws for demand for more dowry.

2. Police investigated the case and after completion of investigation charge sheet has been submitted against the accused persons/petitioners herein.

3. It is the case of the petitioners that the instant case is pending for long time

at the stage of Trial and for that reason the petitioners including petitioner no. 2 and 3 who are senior citizens, have been suffering a lot without any fault on their part.

4. Accordingly, it is prayed that the case which is pending since 2002 may be quashed. Reference has been made to the decisions reported in 2004 C Cr LR (Cal) 436 and 2004 C Cr LR (Cal) 502.

5. The learned Advocate for the Opposite Party No. 2 / Wife has submitted that prosecution is not responsible for the delay in disposal of the case. On the other hand the petitioners are solely liable for such delay. He has further submitted that previously the petitioners filed revisional application before the Hon''ble High Court in the year, 2004 which was ultimately dismissed on 28.02.2007. So, during the period from 2004 to 2007 the learned Trial Court was not in a position to take any initiative in the matter of conducting the Trial of the case. It is further submitted that the instant revisional application has been filed on 9.6.2011 and at that time, the Hon''ble High Court has been pleased to stay the said case for a period of 8 weeks, and for the above facts and circumstances the trial of the concerned case could not be concluded.

6. In this case, there is no controversy that the concerned case is pending since January, 2002. There is also no controversy that during pendency of the said case two revisional applications have been filed before this Court --- one in the year 2004 which was disposed of on 28.02.2007 and another i.e., the instant application, in the year 2011.

7. The controversy mainly relates to the question as to (i) whether the F.I.R. of this case was filed against the accused person mala fide and with ulterior motive; (ii) whether the allegations made in the complaint prima facie disclose the commission of offence as alleged in the F.I.R; (iii) whether the charge-sheet prima facie constituted the offence as alleged in the F.I.R.; and (iv) whether the prosecution is responsible for delay in disposal of the case.

8. Now after taking into consideration all relevant facts and materials on record and giving due regard to the submission made by the learned Counsels for both the parties, it appears that the following three points are required to be considered: (i) Whether there is sufficient ground for proceeding against the petitioners/accused persons; (ii) whether there is an abuse of process of the Court; and (iii) whether ends of justice demands quashing of the proceedings.

9. On perusal of the records of this case it appears that admittedly one revisional application was filed by the present petitioners/revisionists before this Court in 2004 which was disposed of on 28.02.2007 and accordingly, the Trial Court had no opportunity to conduct the Trial of the concerned case during that period. It is also evident that on account of filing the instant revisional application on 9.6.2011, the Trial Court had no scope to conduct the Trial of this case as this Court stayed further proceedings of the case for a period of 8 weeks.

10. Now considering the decisions referred to above with reference to the fact and circumstances of this case, it appears that the said decisions are not applicable in the facts and circumstances of the present case.

11. In the said two decisions referred to above, the concerned cases were pending for more than 14 years and 18 years respectively and investigation of both the cases was not completed during that period. On the other hand, in the instant case after completion of investigation charge sheet was submitted and charges were framed against the accused persons. The evidence of the defacto-complainant/Opposite party No. 2 has already been completed on 17.12.2007. Thereafter evidence of P.W. 2, father of the defacto-complainant, was started on 30.12.2008.

12. Considering the facts and circumstances and the discussions made above, it appears that there is delay in disposal of the case on account of initiation of two revisional applications by the petitioners herein-one in 2004 and another in 2011.

13. Having regard to all such facts and circumstances, I find no merit in the present application u/s 482 of the Code of Criminal procedure which must be dismissed.

14. The instant application u/s 482 of the Code of Criminal Procedure fails.

15. C.R.R. No. 472 of 2011 is dismissed and in the nature and background of the case without costs.

16. Let a copy of this judgment be sent to the learned trial Court for information and necessary action. Urgent Photostat certified copy of this judgment be supplied to the parties, if applied for, subject to compliance with all necessary formalities.