

(2007) 12 AP CK 0073

In the Andhra Pradesh High Court

Case No : Criminal Revision CaseNo. 1196 of 2007

Anees Mohinuddin @ Ameer @ Abu Ayub Ansari

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 04-12-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 209(1), 209(2), 253(1), 253(2), 321
Evidence Act, 1872 — Section 10, 24, 25, 26, 30
Explosive Substances Act, 1908 — Section 3, 4, 5
Penal Code, 1860 (IPC) — Section 120B, 302, 307
Prevention of Terrorism Act, 2002 — Section 3, 3(3), 32(1)
Terrorist and Disruptive Activities (Prevention) Act, 1987 — Section 15(1)

Citation : (2008) 1 ALD(Cri) 169 : (2008) 1 ALT(Cri) 190 : (2008) CriLJ 1476

Hon'ble Judges : B. Seshasayana Reddy, J

Bench : Single Bench

Advocate : K. Suresh Reddy, for the Appellant; Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

B. Seshasayana Reddy, J.—This Criminal Revision Case is directed against the order dated 21.02.2007 passed in M.P. No. 1228 of 2006 in Sessions CaseNo. 225 of 2005 on the file of the Additional Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court, at Hyderabad, whereby and where under the learned Additional Metropolitan Sessions Judge dismissed the application filed by the State u/s 321 Cr.P.C. and consequently refused to accord permission for withdrawal of the prosecution against accused Anees Mohinuddin @ Ameer @ Abu Ayub Ansari (petitioner herein).

2. Background facts in a nutshell leading to filing of this revision by the petitioner/A9 in Sessions CaseNo. 225 of 2005 are:- On 21.11.2002 there was an explosion in front of Sri Sai Baba temple at Dilsukhnagar, Hyderabad. One Smt.Padma died of injuries received in the explosion. A boy by name Bhanu Prakash Reddy and 20 others received injuries in the said explosion. Bhanu

Prakash Reddy succumbed to his injuries while undergoing treatment in Yasoda Hospital of Malakpet, Hyderabad. A report came to be presented by B.Raju Yadav on 21.11.2002 at about 8.15 p.m. before the Inspector of Police, Saroornagar Police Station regarding the said incident. Based on the said report, the Station House Officer, Saroornagar Police Station, registered a case in CrimeNo. 835 of 2002 for the offences under Sections 120-B, 307, 302 IPC and Sections 3, 4 and 5 of the Explosive Substances Act. Subsequently, the case was referred to C.I.D. for further investigation. During the course of investigation, A4 Mohd.Irfan Ali Khan was arrested on 08.10.2003. He confessed his complicity in the commission of offence and disclosed the participation of other accused in the conspiracy, the object of which is to create communal disharmony in India resulting in breach of public order. After due investigation, a charge-sheet came to be submitted before the concerned Chief Metropolitan Magistrate, Hyderabad against eight accused persons namely A1 Abdul Bari @ Abu Hamza, A2 Mohd.Azam, A3 Syed Azez @ Imran, A4 Mohd.Irfan Ali Khan, A5 Syed Abdul Nayeem, A6 Mohd.Abdul Razak @ Masoor, A7 Syed Akhil @ Hafeez and A8 Altaf Ahemad. The learned Magistrate took the charge-sheet on file as PRC and committed the same to the Metropolitan Sessions Division, Hyderabad, as the offences under Sections 307 and 302 IPC and Section 3(3) of POTA are exclusively triable by a Court of Session. The learned Metropolitan Sessions Judge took the case on file as Sessions CaseNo. 74 of 2004 and made over the same to the Additional Metropolitan Sessions Judge for trial. Whilesa a supplementary charge-sheet came to be filed against the petitioner herein, who has been arrayed as A9. The case against the petitioner herein is committed to the Metropolitan Sessions Division, Hyderabad. The learned Metropolitan Sessions Judge, Hyderabad, took the case on file as Sessions CaseNo. 225 of 2005 and made over the same to the Addl. Metropolitan Sessions Judge for trial. Whilesa, the Government issued G.O.Rt. No. 912, Home (Legal.II) Department, dated 18.05.2006 directing the Public Prosecutor to file petition u/s 321 Cr.P.C. for withdrawal of prosecution against the petitioner herein in CrimeNo. 835 of 2002 of Saroornagar Police Station, registered for the offences under Sections 120-B, 302, 307 IPC and Sections 3, 4 and 5 of the Explosive Substances Act and Section 3 of the Prevention of Terrorism Act (POTA). Thereupon, an application being M.P. No. 228 of 2006 u/s 321 Cr.P.C. came to be filed by the Special Public Prosecutor seeking permission of the Court for withdrawal of prosecution against the petitioner/A9. Twin grounds were urged in the petition for withdrawal. Firstly, paucity of evidence, and Secondly, confession of accused made while in custody does not bind on co-accused as per judgment of the Supreme Court in State (N.C.T. of Delhi) v. Navjot Sandhu AIR 2005 SCW 4148.

3. The learned Additional Metropolitan Sessions Judge, on hearing the prosecution and on considering the material brought on record, came to the conclusion that the grounds urged by the Public Prosecutor for withdrawal of prosecution against the petitioner/A9 are not tenable and thereby proceeded to dismiss the application, by order dated 21.02.2007. The said order is under

challenge in this revision by the petitioner/A9.

4. Heard Sri T.Bali Reddy, learned senior counsel appearing for the petitioner/A9 and learned Additional Public Prosecutor appearing for the respondent/State.

5. Sri T.Bali Reddy, learned senior counsel appearing for the petitioner/A9 submits that except the confession of the co-accused, there is no material to speak of the complicity of the petitioner in the conspiracy in pursuance of which explosion occurred in front of Sri Sai Baba Temple at Dilsukhnagar, Hyderabad, on 21.11.2002. He would further submit that the confession made by the co-accused while in custody is hit by Section 24 of the Evidence Act and in which case there is no evidence to connect the petitioner/A9 with any one of the accused in CrimeNo. 835 of 2002 of Saroornagar Police Station. In support of his submissions, reliance has been placed on the decision of the Supreme Court in Navjot Sandhu's case 2005 AIR SCW 4148 (supra).

6. A Constitution Bench of the Apex Court in Hari Charan Kurmi and Jogia Hajam Vs. State of Bihar, clarified the legal position with regard to the admissibility of the confession of the co-accused as hereunder:

...In dealing with a case against an accused person, the Court cannot start with the confession of co-accused person; it must begin with other evidence adduced by the prosecution and after it has formed its opinion with regard to the quality and effect of the said evidence, then it is permissible to turn to the confession in order to receive assurance to the confession of guilt which the judicial mind is about to reach on the said other evidence.

7. The Supreme Court in Jameel Ahmed and Another Vs. State of Rajasthan, , laid down the following propositions as regards the confession being used against a co- accused.

In regard to the use of such confession as against a co-accused, it has to be held that as a matter of caution, a general corroboration should be sought for but in cases where the court is satisfied that the probative value of such confession is such that it does not require corroboration then it may base a conviction on the basis of such confession of the co-accused without corroboration. But this is an exception to the general rule of requiring corroboration when such confession is to be used against a co-accused.

The nature of corroboration required both in regard to the use of confession against the maker as also in regard to the use of the same against a co-accused is of a general nature, unless the court comes to the conclusion that such corroboration should be on material facts also because of the facts of a particular case. The degree of corroboration so required is that which is necessary for a prudent man to believe in the existence of facts mentioned in the confessional statement.

8. A question came up for consideration before the Supreme Court in Navjot Sandhu's case 2005 AIR SCW 4148 (supra), whether confession of the accused

made u/s 32(1) of Prevention of Terrorism Act is admissible against some other accused. The Supreme Court on survey of various decisions with regard to use of confession under POTA against co-accused observed as hereunder:

...Our attention has been drawn to the provisions of Cr.P.C. and POTA providing for a joint trial in which the accused could be tried not only for the offences under POTA but also for the offences under IPC. We find no difficulty in accepting the proposition that there could be a joint trial and the expression "the trial of such person" may encompass a trial in which the accused who made the confession is tried jointly with the other accused. From that, does it follow that the confession made by one accused is equally admissible against others, in the absence of specific words? The answer, in our view, should be in the negative. On a plain reading of Section 32(1), the confession made by an accused before a police officer shall be admissible against the maker of the confession in the course of his trial. It may be a joint trial along with some other accused; but, we cannot stretch the language of the section so as to bring the confession of the co-accused within the fold of admissibility. Such stretching of the language of law is not at all warranted especially in the case of a law which visits a person with serious penal consequences (vide the observations of Ahmadi, J (as he then was) in *Niranjan Singh Karam Singh Punjabi and Others Vs. Jitendra Bhimraj Bijja and others*, , which were cited with approval in *Kartar Singh's* case). We would expect a more explicit and transparent wording to be employed in the section to rope in the confession of the co-accused within the net of admissibility on par with the confession of the maker. An evidentiary rule of such importance and grave consequence to the accused could not have been conveyed in a deficient language. It seems to us that a conscious departure was made by the framers of POTA on a consideration of the pros and cons, by dropping the words "co-accused" etc. These specific words consciously added to Section 15(1) by 1993 amendment of TADA so as to cover the confessions of co-accused would not have escaped the notice of Parliament when POTA was enacted. Apparently, the Parliament in its wisdom would have thought that the law relating to confession of co-accused under the ordinary law of evidence, should be allowed to have its sway, taking clue from the observations in *Kartar Singh's* case at paragraph 255. The confession recorded by the police officer was, therefore, allowed to be used against the maker of the confession without going further and transposing the legal position that obtained under TADA. We cannot countenance the contention that the words "co-accused" etc. were added in Section 15(1) of TADA, *ex majore cautela*.

We are, therefore, of the view that having regard to all these weighty considerations, the confession of a co-accused ought not be brought within the sweep of Section 32(1). As a corollary, it follows that the confessions of the 1st and 2nd accused in this case recorded by the police officer u/s 32(1), are of no avail against the co-accused or against each other. We also agree with the High Court that such confessions cannot be taken into consideration by the Court u/s 30 of the Indian Evidence Act. The reason is that the confession made to a police

officer or the confession made while a person is in police custody, cannot be proved against such person, not to speak of the co-accused, in view of the mandate of Sections 25 and 26 of the Evidence Act. If there is a confession which qualifies for proof in accordance with the provisions of Evidence Act, then of course, the said confession could be considered against the co-accused facing trial under POTA. But, that is not the case here.

9. When the application for consent to the withdrawal from the prosecution comes for consideration, the Court has to decide whether to grant such consent or not. The function which the Court exercises in arriving at this decision, as pointed out by the Supreme Court in *The State of Bihar Vs. Ram Naresh Pandey*, is a judicial function. The Court has to exercise its judicial discretion with reference to such material as is then available to it and in exercise of this discretion the Court has to satisfy itself that the executive function of the public prosecutor has not been improperly exercised and that the grounds urged in support of the application for withdrawal are legitimate grounds in furtherance of public justice. The discretion has not to be exercised by the Court mechanically and the consent applied for has not to be granted as a matter of formality or for the mere asking. The Court has to consider the material placed before it and satisfy itself that the grant of consent would serve the interest of justice. The Supreme Court in *The State of Bihar Vs. Ram Naresh Pandey*, pointed out that consent is not to be lightly given on the application of public prosecutor "without a careful and proper scrutiny of the grounds on which the application for consent is made". It was emphasised by the Supreme Court that in these matters the public prosecutor exercises discretionary functions in respect of which the initiative is that of the executive but the responsibility is that of the Court. The Supreme Court reiterated in *M.N. Sankarayarayanan Nair Vs. P.V. Balakrishnan and Others*, that the Court must satisfy itself that the executive function of the public prosecutor has not been improperly exercised and that it is not an attempt to interfere with the normal course of justice and added that the Court must give its permission only if it is satisfied on the materials placed before it that the grant of consent subserves the administration of justice. The same view has been taken in all the subsequent cases and it must now be regarded as well settled that the Court while considering whether to grant consent or not must not accept the ipse dixit of the public prosecutor and content itself by merely examining whether the public prosecutor has applied an independent mind but the Court must satisfy itself not only that the grounds urged are germane or relevant to advancement of public justice but also whether the grounds in fact are satisfactorily established. The ultimate test which must be applied by the Court in order to determine the validity of the grounds in a particular case is that the requirement of public justice outweighs the legal justice of that case so that withdrawal from the prosecution could be permitted in the larger interest of public justice.

10. Judged by the well settled principles laid down by the Supreme Court in *The State of Bihar Vs. Ram Naresh Pandey*, and *Rajender Kumar Jain and Others Vs.*

State Through Special Police Establishment and Others, , the validity or otherwise of the order impugned in the revision is required to be examined.

11. The real question that has to be answered in this revision is whether the executive function of the public prosecutor in applying for the withdrawal has been properly performed or not. Section 321 Cr.P.C. needs three requisites to make an order under it valid: (1) the application should be filed by a public prosecutor or assistant public prosecutor who is competent to make an application for withdrawal, (2) he must be in charge of the case, (3) the application should get the consent of the Court before which the case is pending.

12. The public prosecutor should normally be credited with fairness in exercise of his power u/s 321, when there is no attack against him of having acted in an improper manner. He had before him the State Government's communication of the policy taken by it. He had before him the case diary statements and other materials. The question that remains then is whether the grounds urged by him in support of withdrawal were sufficient in law. Section 321 gives the public prosecutor, the power for withdrawal of any case at any stage before judgment is pronounced. This pre-supposes the fact that, the entire evidence may have been adduced in the case, before the application is made. When an application u/s 321, Cr. P.C. is made, it is not necessary for the Court to assess the evidence to discover whether the case would end in conviction or acquittal. To contend that the Court when it exercises its limited power of giving consent u/s 321 has to assess the evidence and find out whether the case would end in acquittal or conviction, would be to re-write Section 321 Cr. P.C. and would be to concede to the Court a power which the scheme of Section 321 does not contemplate. The acquittal or discharge order u/s 321 is not the same as the normal final orders in criminal cases. The conclusion will not be backed by a detailed discussion of the evidence in the case of acquittal or absence of prima facie case or groundlessness in the case of discharge. All that the Court has to see is whether the application is made in good faith, in the interest of public policy and justice and not to thwart or stifle the process of law. The Court, after considering these facets of the case, will have to see whether the application suffers from such improprieties or illegalities as to cause manifest injustice if consent is given.

13. Section 321 Cr.P.C. reads as follows:

Section 321. Withdrawal from prosecution:- The Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court, at any time before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried; and, upon such withdrawal, --

a) If it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences;

b) If it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted in respect of such offence or offences.

Provided that where such offence, --

i) was against any law relating to a matter to which the executive power of the Union extends; or

ii) was investigated by the Delhi Special Police Establishment under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or

iii) involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government; or

iv) was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty, and the Prosecutor in charge of the case has not been appointed by the Central Government, he shall not, unless he has been permitted by the Central Government to do so, move the Court for its consent to withdraw from the prosecution and the Court shall, before according consent, direct the Prosecutor to produce before it the permission granted by the Central Government to withdraw from the prosecution.

14. This Section enables the Public Prosecutor, in charge of the case to withdraw from the prosecution of any person at any time before the judgment is pronounced, but this application for withdrawal has to get the consent of the Court and if the Court gives consent for such withdrawal the accused will be discharged if no charge has been framed or acquitted if charge has been framed or where no such charge is required to be framed. It clothes the public prosecutor to withdraw from the prosecution of any person accused of an offence both when no evidence is taken or even if entire evidence has been taken. The outer limit for the exercise of this power is "at any time before the judgment is pronounced."

15. The section gives no indication as to the grounds on which the Public Prosecutor may make the application, or the considerations on which the Court is to grant its consent. The initiative is that of the Public Prosecutor and what the Court has to do is only to give its consent and not to determine any matter judicially. The judicial function implicit in the exercise of the judicial discretion for granting the consent would normally mean that the Court has to satisfy itself that the executive function of the Public Prosecutor has not been improperly exercised, or that it is not an attempt to interfere with the normal course of justice for illegitimate reasons or purposes.

16. The Court's function is to give consent. When the Public Prosecutor makes the application for withdrawal after taking into consideration all the materials before him, the Court exercises its judicial discretion by considering such materials and on such consideration, either gives consent or declines consent. The section should not be construed to mean that the Court has to give a detailed reasoned order when it gives consent. If on a reading of the order giving consent, a higher Court is satisfied that such consent was given on an overall consideration of the materials available, the order giving consent has necessarily

to be upheld.

17. Ram Naresh Pandey's case AIR 1957 S.C. 389 (supra) is a land mark case which has laid down the law on the point with precision and certainty. In this decision the functions of the Court and the Public Prosecutor have been outlined. While discussing the role of the Court, the Supreme Court observed:

His discretion in such matters has necessarily to be exercised with reference to such material as is by then available and it is not a prima facie judicial determination of any specific issue. The Magistrate's functions in these matters are not only supplementary, at a higher level, to those of the executive but are intended to prevent abuse. Section 494 requiring the consent of the Court for withdrawal by the public prosecutor is more in line with this scheme, than with the provisions of the Code relating to inquiries and trials by Court. It cannot be taken to place on the Court the responsibility for a prima facie determination of the triable issue. For instance the discharge that results therefrom need not always conform to the standard of "no prima facie case" under Sections 209(1) and 253(1) or of "groundlessness" under Sections 209(2) and 253(2). This is not to say that a consent is to be lightly given on the application of the public prosecutor, without a careful and proper scrutiny of the grounds on which the application for consent is made.

18. The Supreme Court quoted this decision with approval in M.N. Sankarayarayanan Nair Vs. P.V. Balakrishnan and Others, wherein it was pointed out that though the Section does not give any indication as to the ground on which the Public Prosecutor may make an application on the consideration of which the Court is to grant its consent, it must nonetheless satisfy itself that the executive function of the Public Prosecutor has not been improperly exercised and that it is not an attempt to interfere with the normal course of justice for illegitimate reasons or purposes.

19. In S.K. Shukla and Ors. v. State of U.P. 2006 CrL.L.J. 148 the Supreme Court held that in withdrawal from prosecution the Public Prosecutor cannot act like a post box or act on the dictate of the State Governments. He has to act objectively as he is also an officer of the Court. At the same time, Court is also not bound by that. The Courts are also free to assess whether the prima-facie case is made or not. Para. 33 of the cited judgment needs to be noted and it is thus: "33. This petition is filed against the order passed by the State Government dated 29.8.2003 whereby public prosecutor was directed to withdraw the POTA cases against the accused persons. An application was moved by public prosecutor for withdrawal of these cases before Special Judge, though no order was passed permitting withdrawal of these cases. However, in view of our finding in SLP (CrL.) 5609 of 2004, we cannot affirm the order of the State Government for withdrawal of these cases and consequential application made by the public prosecutor for withdrawal of these cases. The order passed by the government dated 29.8.2003 as well as application moved by the special public prosecutor before the Special Judge, Kanpur Nagar cannot be sustained and accordingly the

order passed by the State Government and the application moved by the special public prosecutor before the Special Judge at Kanpur, both are rejected. In this connection our attention was invited to Sheonandan Paswan Vs. State of Bihar and Others, , Rajender Kumar Jain and Others Vs. State Through Special Police Establishment and Others, , R.M. Tewari Vs. State (NCT of Delhi) and Others, . In these cases it has been laid down that the public prosecutor has to shoulder a greater responsibility for withdrawal of the cases u/s 321 Cr.P.C. In Sheonandan Paswan Vs. State of Bihar and Others, , it was held, that the settled law laid down by the Supreme Court has been that the withdrawal from the prosecution is an executive function of the Public Prosecutor and the ultimate decision to withdraw from the prosecution is his. Before an application is made u/s 321, the Public Prosecutor has to apply his mind to the facts of the case independently without being subject to any outside influence. The Government may suggest to the Public Prosecutor that a particular case may not be proceeded with, but nobody can compel him to do so. However, Section 321 of the Code does not lay any bar on the Public Prosecutor to receive any instruction from the government before he files an application under that section. If the Public Prosecutor received such instructions, he cannot be said to act extraneous influence. On the contrary, the Public Prosecutor cannot file an application for withdrawal of a case on his own without instruction from the Government, since a Public Prosecutor cannot conduct a case absolutely on his own, or contrary to the instruction of his client, namely, the Government. Unlike the Judge, the Public Prosecutor is not an absolutely independent officer. He is appointed by the government for conducting in Court any prosecution or other proceedings on behalf of the government concerned. So there is the relationship of counsel and client between the Public Prosecutor and the Government. If the Government gives instructions to a Public prosecutor to withdraw from the prosecution of a case, the latter after applying his mind to the facts of the case may either agree with instructions and file a petition stating grounds of withdrawal or disagree therewith having found a good case for prosecution and refuse to file the withdrawal petition. In the latter event the Public Prosecutor will have to return the brief and perhaps to resign, for, it is the Government, not the Public Prosecutor, who is in the know of larger interest of the State". The Public Prosecutor cannot act like a post box or act on the dictate of the State Governments. He has to act objectively as he is also an officer of the Court. At the same time Court is also not bound by that. The Courts are also free to assess whether the prima-facie case is made or not. The Court, if satisfied, can also reject the prayer. However, in the present case we have examined the matter and found that there is a prima-facie case to proceed against the accused persons u/s 4(b) of the Act and other provisions of the Explosive or Arms Act, therefore, the sanction granted by the Government and application moved by public prosecutor for withdrawal of the cases cannot be sustained. Hence, Writ Petition Nos. 132-134 of 2004 is accordingly allowed and the order of the State Government dated 29.8.2003 withdrawing the cases against the accused persons is quashed, likewise direction to the public prosecutor for withdrawing the cases from the Court."

20. The object of Section 321 appears to be to reserve power to the Executive Government to withdraw any criminal case on larger grounds of public policy such as inexpediency of prosecutions for reasons of State; broader public interest like maintenance of law and order; maintenance of public peace and harmony, social, economic and political; changed social and political situation; avoidance of destabilization of a stable Government and the like. And such powers have been rightly reserved for the Government; for, who but the Government is in the know of such conditions and situations prevailing in a State or in the country. The Court is not in a position to know such situations. The Public Prosecutor may withdraw from the prosecution not only on the ground of paucity of evidence but on other relevant grounds as well in order to further broad aims of justice, public order and peace. Broad aims of public justice will certainly include appropriate social, economic, and political purposes. The withdrawal from prosecution is an executive function of the Public Prosecutor and the ultimate decision to withdraw from the prosecution is his; the Government may suggest to the public prosecutor that a particular case may not be proceeded with, but nobody can compel him to do so; not merely inadequacy of evidence, but other relevant grounds such as to further the broad ends of public justice, economic and political; public order and peace are valid grounds for withdrawal. The exercise of the power of the Court is judicial to the extent that the Court, in according or refusing consent, has to see (i) Whether the grounds of withdrawal are valid; and (ii) whether the application is bona fide or is collusive. It may be remembered that the order passed by the Court u/s 321, either according or refusing to accord consent, is not appealable.

21. The trial Court proceeded to dismiss the application on two grounds. Firstly, once the Court has taken cognizance of the case, application u/s 321 Cr.P.C. is not maintainable. Secondly, the confession of the co-accused is admissible u/s 10 of the Evidence Act. It is well-settled proposition of law that application u/s 321 Cr.P.C. can be filed at any time before the judgment is pronounced. Therefore, the observation of the trial Court that once the Court took cognizance of the case, application u/s 321 Cr.P.C. cannot be maintained is unsustainable. With regard to confession of the co-accused, though the trial Court has dealt Section 10 of the Evidence Act very exhaustively, but it is not clear from the order as to which of the accused in Sessions CaseNo. 74 of 2005 stated the participation of the present petitioner. In these circumstances, I am left with no option except to remand the matter to the trial Court for fresh consideration of the application filed u/s 321 Cr.P.C.

22. Accordingly, the criminal revision case is allowed setting aside the order dated 21.02.2007 passed in M.P. No. 1228 of 2006 in Sessions CaseNo. 225 of 2005 on the file of the Additional Metropolitan Sessions Judge for the trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court, at Hyderabad, and the matter is remanded back to the trial Court to consider the application filed u/s 321 Cr.P.C. afresh and dispose of the same as expeditiously as possible.