
(2014) 04 AHC CK 0273
In the Allahabad High Court
Case No : Criminal Revision No. 810 of 2014

Anil Kumar

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 10-04-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 304-B, 498-A

Citation : (2015) 1 ACR 938 : (2014) 86 ALLCC 805

Hon'ble Judges : Karuna Nand Bajpayee, J

Bench : Single Bench

Advocate : Pankaj Kumar Srivastava and Sasmita Srivastava, Advocate for the Appellant

Judgement

Karuna Nand Bajpayee, J.—This revision has been filed assailing the validity of the order dated 21.2.2014 passed by Additional Sessions Judge, Court No. 6, Allahabad in S.T. No. 676 of 2007 (State of U.P. v. Anil Kumar @ Deepu and others), Police Station-Holagarh, District-Allahabad. Heard learned Counsel for the revisionists and learned A.G.A. Perused the record.

2. It appears from the record that the revisionists are the accused of the case u/s 498-A, 304-B I.P.C. & Dowry Prohibition Act which was going on in the Trial Court. It also appears that the statements of the accused u/s 313 Cr.P.C. had been recorded on 26.6.2013 and thereafter the case was fixed on several dates to provide opportunity to the accused-revisionists to produce their defence evidence. Two witnesses D.W.-1 and D.W.-2 were also examined in that process. On 19.2.2014 when an adjournment seeking the time to produce the defence was moved the same was allowed after imposing a cost of Rs. 100/- and the date 21.2.2014 was fixed with the condition that if the accused do not produce their defence evidence, no further opportunity to do the same would be given. Thereafter, on the same date instead of producing any defence evidence, an application was moved on behalf of the revisionists that the way in which the

Court has treated the accused has given them the reason to apprehend that they might not get justice and therefore 15 days further time should be given to them so that they may move a transfer application. This application was rejected by way of passing the impugned order which is under challenge.

3. Learned Counsel for the revisionists has submitted that the Trial Court instead of giving 15 days time to the revisionists to move transfer application proceeded to close the opportunity to furnish defence evidence and fixed up the case for 27.2.2014 to hear the arguments. According to the Counsel such an order reflects the prejudice in the Court's mind and instead of closing the defence evidence it should have laid its hands off from the file as the apprehension of not getting justice had already been expressed by the accused-revisionists. On being questioned the learned Counsel for the revisionists has fairly conceded that till this date the arguments of the case have not been heard by the Trial Court nor the case has been decided. It is also fairly conceded that till this date neither the District and Sessions Judge nor this Court has passed any order for staying the trial or any order to transfer the trial.

4. The Counsel is not in a position to inform whether even a transfer application has actually been moved till this date by the accused-revisionists or not. Perusal of the impugned order reveals that the Court below has fairly proceeded to dispose of the application which was moved by the revisionists and has given sound reasons to reject the same. It has been observed by the Court below that after the statements of the accused were recorded under sections 313 Cr.P.C. several dates like 15.7.2013, 23.7.2013, 7.8.2013, 24.8.2013, 9.9.2013, 28.9.2013, 8.10.2013, 15.10.2013, 6.11.2013, 10.12.2013, 7.1.2014, 15.1.2014, 29.1.2014, 10.2.2014 and 15.2.2014 had been fixed providing opportunity to the accused to furnish whatever defence they desired to produce. It has also been taken note of by the Trial Court that even after an express observation made by the Court when it allowed the application of adjournment that if the defence evidence shall not be produced, the opportunity may be closed, the revisionists still were not diligent enough and did not take care to avail opportunity. In fact even the cost imposed remained unpaid. The Court below has also very fairly observed that though the application contains a bald allegation of ill-treatment meted out to the accused-revisionists yet there is absolutely no detail about the same given in the application. The Court below has observed categorically that the allegation made is not only baseless but is concocted and fabricated. Finding given by the Court below is that just because one of the revisionists-accused is himself a lawyer and wanted to procrastinate the matter on vexatious grounds the application in question was moved with mala fide intention. In fact it is also apparent in the facts and circumstances of the case that even though the case was fixed up for arguments but even till this date the case has remained un-transferred and the revisionists have also not succeeded to obtain any stay order from any Court with regard to transfer of the trial. The application moved by the revisionists only sought 15 days time to move a transfer application. Much more time has elapsed and it cannot be said that

they had no sufficient opportunity to either move transfer application or to obtain any relief from the competent Court. It is also very obvious that even though the case was listed for arguments, the Trial Court has not displayed any undue haste to decide the matter and even till date the matter is pending at the stage of hearing the arguments in the matter. The Trial Court has not hastened to conclude or decide the matter with any unholy dispatch.

5. It is true that it is the right of the accused to produce his defence but that is by no means to say that in the name of exercise of the same right any accused can hold the proceedings of the Court at ransom and to procrastinate the proceedings of the trial for an indefinite period of time. In fact the application was not moved to seek any opportunity to produce any further defence but the same in fact was moved to grant time so that a transfer application may be moved. Even this application did not contain any good grounds or facts or circumstances which could have given any justification to accept the same. I do not see anything wrong in the impugned order nor is there anything in the same which reflects any prejudice against the accused. In fact what can be read in between the lines very well that the application in fact was moved with ulterior motive for causing undue delay and as this was an old trial of 2007, therefore the approach of the Court below to proceed in the matter with dispatch was neither unjustified nor uncalled for. The period of about 7 months to produce the defence evidence can by no means be termed to be an inadequate period of time or an insufficient opportunity that was given to the accused. The revision being sans merit stands dismissed.