
(2011) 10 SC CK 0033

In the Supreme Court Of India

Case No : Writ Petition (Criminal) No's. 310 of 2005, 94 of 2008 and 82 of 2010

Bhim Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 13-10-2011

Acts Referred:

Jammu and Kashmir Criminal Procedure Code, 1989 — Section 512

Citation : (2012) 2 SCALE 438

Hon'ble Judges : R.M. Lodha, J; Jagdish Singh Khehar, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. On September 6, 2011, the Bench deferred the orders in relation to case No. 274/1998 (P.S. Kupwara) and Case No. 146/1998 (P.S. Handwara).
2. We have heard Mr. Bhim Singh Petitioner and Mr. M.I. Qadiri. learned Advocate General for Jammu and Kashmir.
3. S. No. 4 - Case No. 274/1998 (P.S. Kupwara): From the chart that is placed on record, it transpires that in this criminal case in all there are six accused persons: one of them being a foreign national and the other five local people.
4. In so far as the foreign national is concerned, he is presently lodged in Central Jail, Jodhpur and the trial is being held at Sessions Court. Jodhpur. In the trial four prosecution witnesses have been examined and six are yet to be examined by the prosecution.
5. However, the other five accused are reported to be absconding for more than 11 years. Against them warrants have been issued, but they have not been executed and the proceedings initiated u/s 512 of the Jammu and Kashmir Code of Criminal Procedure could not be taken to logical conclusion.
6. In our view, since substantial progress in the trial has taken place in so far as the foreign national is concerned and the other accused are absconding, interest

of justice will be sub-served if the trial continues in the Sessions Court, Jodhpur. We, accordingly, find no justification for transfer of this case.

7. S. No. 14 - Case No. 146/1998 (P.S. Handwara): In this criminal case, it appears from the chart that in all there are four persons who are arrayed as accused. One of them is a foreign national and other three are local persons. One of the local accused, namely, Mohd. Sadiq s/o Mir Baz Khan, is reported to be dead. Obviously as against him the trial has abated. From the chart, it is further revealed that prosecution has examined four witnesses and other four witnesses remain to be examined.

8. The other two accused persons who are accused in the case are reported to be absconding for more than a decade and proceedings u/s 512 of the Jammu and Kashmir Code of Criminal Procedure have been initiated against them.

9. Having regard to these facts, we are satisfied that interest of justice would be served if the trial continues at Sessions Court, Jodhpur. We, accordingly, decline to transfer trial of this case as well.

10. The Sessions Court, Jodhpur, is expected to complete the trial in the above two matters as early as possible and preferably before June 30, 2012.

11. Mr. Prarag P. Tripathi, learned Additional Solicitor General, prays for some time for filing an additional affidavit indicating present status of foreign nationals remaining to be repatriated and updating the statement made in the additional affidavit dated August 2, 2011.

12. Stand over for four weeks.

W.P. (Crl.) No. 94 of 2008:

13. Mr. M.I. Qadiri, learned Advocate General for Jammu and Kashmir, orally stated that the Petitioner in this Writ Petition has been deported in the month of February 2011 and nothing remains in this Writ Petition. However, he prays for some time to state this fact on affidavit.

14. Stand over for four weeks.

W.P. (Crl.) No. 82 of 2010:

15. Stand over for four weeks.