
(1996) 09 CAL CK 0043
In the Calcutta High Court
Case No : Criminal Rev. No. 78 of 1996

Haridas Chatterjee

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 13-09-1996

Acts Referred:

Constitution of India, 1950 — Article 21
Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (1997) 1 ALT(Cri) 24 : (1997) 1 CALLT 186

Hon'ble Judges : Asish Baran Mukherjee, J

Bench : Single Bench

Advocate : Kazi Safiuddin Ahmed, for the Appellant; Jyotsna Roy Mukherjee, for the Respondent

Final Decision : Allowed

Judgement

Asish Baran Mukherjee, J.—An application u/s 482 Cr.P.C. revealing a sad episode and at the same time a slur on the administration of justice has given rise to the present revisional application preferred with a view to quash S.C. Case No. 114 of 1994 pending before the Additional Sessions Judge at Assansol and arising out of Jamuria P.S. Case No. 2(11) of 1974 u/s 409 IPC.

The case of the petitioner is that on the basis of a complaint filed by the Block Development Officer, Jamuria (I), at Jamuria Police Station alleging misappropriation of government cash amounting to Rs. 9249.99 a case was started against the present petitioner. The petitioner surrendered before the Sub-Divisional Judicial Magistrate, Assansol on 16.1.75 and was enlarged on bail. After a protracted investigation charged sheet was ultimately submitted and on the basis of the same the S.D.J.M. took cognizance on 21.3.87. On 30.8.94 the case was committed to the court of Session with a direction on the petitioner to appear on 29.9.94.

2. The petitioner was suspended on 9.11.74, No charge was framed on the departmental proceeding, in the meantime the petitioner superannuated on

31.12.94. It is alleged that neither the trial of the criminal case nor the departmental proceeding have come to an end even though more than 21 years have passed in the meantime. The petitioner is in a wretched condition since he is to meet his both ends with the provisional pension of Rs. 375 per month. The need for speedy trial in accordance with Article 21 of the Constitution which has been emphasised in a good number of cases by the Supreme Court has not been observed either in the trial of the criminal case or with regard to the departmental proceeding. Accordingly, the petitioner has prayed for quashing of the criminal case.

3. As per affidavit of service notice it appears to have been served on the opposite party, the State, but none entered appearance. The reason in my opinion is obvious.

4. The facts stated by the petitioner in course of the revisional application must be deemed to be admitted in view of xerox copy of document filed with the revisional application and also because of the omission on the part of the State to contest the revisional application. As per the copy of the F.I.R., it was made on 16.11.74. The exact date of the surrender of the accused petitioner does not appear from the xerox paper of the certified copy of the order sheet since the relevant portion of the original must have been turned as appears from the endorsement made on the copy but the same must be in the middle of January, 1975 as will appear from the date of remand which was fixed at 1.2.75. The investigation continued for more than 12 years and cognizance of the offence was taken by the Magistrate on 21.3.87. It took about 7 years for the case to be committed to the Court of Sessions since commitment was made on 13.8.94. The case is still pending trial. In the meantime the petitioner retired on 31.12.94. His pension and other retirement benefits were also withheld due to the pendency of the departmental proceeding where he was suspended w.e.f. 9.7.74. The petitioner have to move this court for getting retirement benefits and as it appears from the xerox copy of relevant order of the District Magistrate, Burdwan being 221 /Development dated 31.1.96 the period of service including the period of suspension was taken into account for the purpose of calculation of provisional pension and other retirement benefits in terms of order of this court dated 14.9.95 passed in C.O. No. 16477(W)/95. The pathetic state of affairs need not be emphasised since it is clear from the aforesaid facts.

5. The learned Advocate representing the petitioner has relied on a number of decisions of the apex court as well as of this court, in support of his contention that in the facts and circumstances the criminal case in question need be quashed, since there has been utter failure of justice and clear violation of the mandate as laid down under Article 21 of the Constitution. It has been held in a case reported in 1979 Cr. L.J. 1036 that speedy trial is an integral and essential part of fundamental right to life and liberty enshrined in Article 21 of the Constitution. The decision reported in 1979 Cr. L.J. 1045 also emphasised the right to speedy trial. So also the decision reported in 1979 Cr. L.J. 1052. In the

decision reported in 1992 Cr. L.J. 2717 it has been held that the Constitutional guarantee of speedy trial is properly reflected in this Criminal Procedure Code. The said decision also laid down some guidelines for speedy trial. Emphasise has been given about the worry, anxiety, expense, disturbance to vocation and peace resulting from unduly prolonged investigation which is suffered by accused involved in such a case and recommended to quash in such circumstances being the only remedy to mitigate the mischief already done by the State machinery. In the decision reported in 1990 Cr. L.J. 643 a Division Bench of this court also spoke about the necessity of speedy trial and there being a delay of 20 years for trial to end the proceeding was quashed.

6. After taking into consideration the principles of law embodied in Article 21 of the Constitution emphasised by the decisions stated above the only course which lies before me is to quash the criminal case which could not be completed even after lapse of more than 21 years. Accordingly, the revisional application stands allowed on merit and the S.C. Case No. 114 of 1994 pending before the learned Additional Sessions Judge at Assansol stands quashed. The accused petitioner be released from his bail bond.