

(2014) 11 AHC CK 0246
In the Allahabad High Court
Case No : Application U/s 482 No. 15460 of 2008

Manbodh Prasad

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 12-11-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 408, 419, 420

Citation : (2014) 11 AHC CK 0246

Hon'ble Judges : Om Prakash-VII, J

Bench : Single Bench

Advocate : Nikhil Kumar, Advocate for the Appellant

Judgement

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Om Prakash-VII, J.—List has been revised. Shri Nikhil Kumar, learned counsel for the applicant and the learned A.G.A. for the State are present.

2. The present application under Section 482 Cr.P.C. has been filed with the prayer to quash the entire proceedings of case No. 2333 of 1991 (State v. Manbodh Prasad) under Sections 408, 419 & 420 IPC, Police Station Kotwali Bansi, District - Siddharth Nagar pending in the court of Judicial Magistrate, Bansi, Siddharth Nagar. It is further prayed that further proceedings of the aforesaid case be stayed.

3. Heard learned counsel for the parties.

4. It is submitted by the learned counsel for the applicant that in the present matter, First Information Report was lodged in the year 1977 and chargesheet was filed on 21.12.1977. It is further submitted that the offences have been committed within the period 2.5.1973 to 2.9.1977. Cognizance in the matter had been taken in the year 1987. Processes were issued on 10.2.1988 but despite the fact that the case has been listed several times, no progress was made. Neither witnesses were examined nor the applicant was discharged from the

charges. Since initiation of the trial, the applicant was regularly attending the court. It is further submitted that the applicant is on the verge of retirement and is resident of State of Bihar, therefore, the prayers made in the present application be allowed. He places reliance on the decisions of the Supreme Court in *Vakil Prasad Singh Vs. State of Bihar*, *P. Ramachandra Rao Vs. State of Karnataka*, and *Common Cause A Registered Society through its Director Vs. Union of India (UOI) and Others*, .

5. On the other hand, referring to the certified copy of the ordersheet, learned AGA has submitted that for the delay in conclusion of the trial, the applicant himself is responsible. He is not attending the court regularly, therefore, no progress is made in the trial. The applicant is habitual in absconding and applying for recall of coercive orders passed against him.

6. I have considered the submissions made by the learned counsel for the parties and perused the entire record including the case laws cited by the learned counsel for the applicant.

7. It is settled legal position that when a court comes to the conclusion that the right to speedy trial of an accused has been infringed, the charges or the conviction, as the case may be quashed unless the court feels that having regard to the nature of offence and other relevant circumstances, quashing of proceedings may not be in the interest of justice. In such a situation, it is open to the court to make an appropriate order as it may deem just and equitable including fixation of time-frame for conclusion of trial.

8. From a perusal of the entire record, it transpires that after taking cognizance, the court concerned had issued summon to the applicant but the applicant did not appear on the date fixed. Several times coercive processes for appearance of the applicant had been issued. It is also evident that applicant himself is responsible for the delay in conclusion of trial, as time and again he absconded and moved application to recall the process.

9. Hence, considering the entire facts and circumstances of the case, this court is of the view that the prayers/submissions made by the learned counsel for the applicant are not liable to be accepted and the application is liable to be rejected.

10. Accordingly the application is dismissed.

11. Interim order, if any, stands vacated.

12. However, the trial court is directed to decide the matter within six months from the date of production of a certified copy of this order before it. The court below is also directed that if the applicant files bail/surrender application, the same, if not already considered, be considered.