
(2003) 01 KAR CK 0055

In the Karnataka High Court

Case No : Criminal Petition No. 4893 of 2002

Mohammed Azamathulla alias Azzu and Others

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 14-01-2003

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 407, 482

Citation : (2003) CriLJ 2661 : (2003) ILR (Kar) 1541 : (2003) 3 RCR(Criminal) 795

Hon'ble Judges : K. Sreedhar Rao, J

Bench : Single Bench

Advocate : Hasmath Pasha, for the Appellant; V.Y. Kumar, HCGP, for the Respondent

Final Decision : Dismissed

Judgement

Sreedhar Rao, J.—This petition is filed u/s 482 of Cr.P.C., challenging the order of this Court made on administration side at Annexure-A, exercising powers u/s 407 of Cr.P.C., transferred the Session Cases from the files of City Civil and Sessions Judge, Bangalore to the files Fast Track Courts under the notification in question.

2. The case relating to the petitioners is transferred to Fast Track Court-1, for disposal in accordance with law. According to these petitioners, on earlier occasion after commencement of the trial, the Sessions case in question was transferred to IX the Addl. Sessions Judge to Fast Track Court-1, by the Prl. City Civil and Sessions Judge. This Court in Cri.No.929/-01, set aside the order of transfer and restored to the file of IX Addl. Sessions Judge, for disposal on the ground that u/s 409 Cr.P.C., the Sessions Judge has no power to transfer the part heard cases from the file of one Sessions Court to another. Subsequently, the impugned notification at Annexure-A came to be issued directing the transfer of Sessions Cases again to Fast Track Court-I. At the time of impugned notification, recording of evidence in this case is completed and the case is at the stage of recording statement of accused u/s 313 Cr.P.C. It is the grievance of the

petitioner that, although the case was transferred to the file of Fast Track Court-I and even after lapse of 3 months, this case has not been disposed of.

3. Sri V.Y. Kumar, HCGP, takes notice for the State.

4. Counsel for the petitioners challenged the impugned notification on the following grounds; firstly the transfer violates the salutary norms of trial and disposal of the case by the Sessions Judge, who records the evidence. Secondly, the impugned notification does not adumbrate the justifiable reasons for transfer of the case. Lastly, it is contended that the party is not heard before the order of transfer came to be affected.

5. It is also desired object of procedural law that cases have to be disposed of expeditiously. The historical reasons that contributed for creation of Fast Track Courts, is obvious. The menace of docket explosion has resulted in voluminous pendency of criminal cases in Session Courts. Innumerable accused persons waiting trial are languishing in jail for over years. The accused on bail are roaming around the courts for over years to find their cases expeditiously disposed of. The compelling situation activated and prompted the concerned authorities to act swiftly to find out a solution to the problem of docket explosion. In the said context, with a noble object and social purpose under a special scheme, the Fast Courts have been created. The Chief purpose of the Fast Track Courts is to see that all old cases are disposed of expeditiously.

6. After constitution of Fast Track Courts, it becomes meaningless, if they are not provided with sufficient work. Therefore, in order to serve the object and purpose of creation of Fast Track Court, the notification has been issued by this Court, transferring the old cases to the files of Fast Track Courts irrespective of the stage in which they are pending.

7. Counsel for the petitioner relied on the rulings of this Court in *STATE v. SAMPANGI REDDY'S* ILR 1978 KAR 3098. The decision by a ratio reiterates the object of rule that the Judge who records the evidence shall finally dispose of the case. The proposition of law that the Judge who records evidence should alone render judgment is not an absolute rule without exception. The Code of Criminal Procedure under different justifiable circumstances permits a departure from its compliance. The provisions of Section 407 Cr.P.C., empowers this Court to transfer the case from one Court to another for different reasons and if it is expedient in the ends of justice. Therefore, the transfer of old cases to Fast Track Court to give priority for disposal has to be held as done in the ends of justice.

8. The contention that the order does not adumbrate the reasons justifying the transfer and as such it is bad in law is an untenable contention. The facts and circumstances make it so obvious that no reason need be ascribed. That apart, when the transfer is made u/s 407 Cr.P.C., by exercising administrative powers, the reason need not be mentioned.

9. The contention that the party concerned should be heard before transfer is

made u/s 407 Cr.P.C., is also untenable contention. By ordering transfer of present case u/s 407 Cr.P.C., from one Court to another Court in the same place, no prejudice will be caused. When the law and procedures applicable would remain same, the question of principle of natural justice has no application.

In that view, I find no merit in the petition and accordingly dismissed.

Sri V.Y. Kumar, HCGP, is permitted to file memo of appearance within four weeks.