
(1980) 04 OHC CK 0011
In the Orissa High Court

Padmalochan Sahu

APPELLANT

Vs

Lokanath Sethi and Others

RESPONDENT

Date of Decision : 29-04-1980

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 202, 210

Citation : (1980) 49 CLT 605 : (1981) CriLJ 189

Hon'ble Judges : S. Acharya, J

Bench : Single Bench

Judgement

S. Acharya, J.—The petitioner is the complainant in I. C.C. Case No. 173/79 pending in the Court of the Sub-divisional Judicial Magistrate, Bhubaneswar. The complaint in the case was filed by the petitioner on 24-10-1979. On that date after examining the complainant, the Magistrate stayed the proceeding u/s 210 Cr. P.C. till the completion of the investigation. The complainant appeared in court on 9 subsequent dates but the court on each date merely fixed another date for putting up the case records on its observation that the investigation was not complete or that the report in the Final Form in the police case, which was under investigation, had not been received by it. The complainant on later dates filed petitions to direct an enquiry u/s 202 Cr. P.C. on the complaint filed by him, but the court did not proceed with the complaint case on the ground that investigation of the aforesaid police case was proceeding and report in the Final Form had not been received by it. As the complaint case is still lying dormant on the above ground, the complainant has filed this revision.

2. The L. C. R. which was sent on 22-4-1980 to this Court shows that neither the report required to be filed in the court u/s 210 Cr. P.C. nor the charge sheet or the Final Report in the case had been filed in the court till that date.

Mr. Rath, the learned Addl. Standing Counsel for the State, now states that the charge-sheet in Baliantha P. S. Case No. 143/79" relating to the same incident which is the subject matter of the complaint petition has already been prepared and will be filed shortly in the court.

3. The provision for staying the proceedings in the complaint case u/s 210 Cr. P.C. as it appears to me, is not to stay the complaint case indefinitely till the investigation in the police case is over or till the filing of the Final Report in the case, more so when the concerned police officer does not act expeditiously in the matter and/or does not submit his report u/s 210 Cr. P.C. to the court at an early date. Provision for stay of the proceedings of the complaint case is made u/s 210 Cr. P.C. only for the purpose of calling for a report in the matter from the police officer conducting the investigation to examine whether or not to proceed with the complaint case in the facts and circumstances of the case and in view of the provisions in Sub-sections (2) and (3) of Section 210. If the said report is not submitted within a reasonable time it is not expected of the court to keep the complaint case shelved for an indefinite period helplessly waiting all the time for the investigating agency to file its report as and when it chooses to do so, as in this case. In this case the court should have directed the investigating officer to submit his report contemplated u/s 210(1) Cr. P.C. within a particular time. On the failure of the investigating officer to file that report within a reasonable time the court could have proceeded with the complaint case in accordance with law.

4. However, the charge-sheet in the case has already been prepared and would be filed in the court within a short time, as is stated by Mr. Rath. If the charge-sheet is filed within a short time, the court shall examine the same in the context of the complaint petition filed before it and shall pass suitable orders in accordance with law in the complaint case without any further staying the case under the provisions of Section 210 Cr. P.C.

5. The revision is accordingly allowed.

6. The court below shall proceed with the matter keeping in view the observations made above.

The L. C. R. be sent back immediately.