
(2008) 03 AHC CK 0046
In the Allahabad High Court

Vijay Chandra Srivastava

APPELLANT

Vs

State of Uttar Pradesh and Satya Narayan

RESPONDENT

Date of Decision : 31-03-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 258, 309, 311, 482
Penal Code, 1860 (IPC) — Section 386, 420, 468, 471, 506

Citation : (2008) 03 AHC CK 0046

Hon'ble Judges : Amar Saran, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amar Saran, J.—Heard learned Counsel for the applicant.

2. Tills application u/s 482 Cr.P.C. has been filed praying for quashing of the order dated 21.1.2008 passed by the Metropolitan Magistrate 9th, Kanpur Nagar, in case No. 650 of 2006, arising out of case crime No. 289 of 1999, under Sections 420, 468, 471, 386, 506 IPC, PS Nawabganj, District Kanpur Nagar and for a direction to the trial court to close evidence and to proceed further.

3. The impugned order has been challenged on the ground that the earlier order passed by Hon. Vinod Prasad, J. dated 12.9.2007 in CrI. Misc. 20709 of 2007, wherein it was said that the applicant was being harassed but the prosecution witnesses are not forthcoming. In that case, the High Court directed the court below to record the evidence of the witnesses and if witnesses did not turn up, then close the prosecution evidence and proceed further in accordance with law.

4. The learned Metropolitan Magistrate has observed in the impugned order that the intention of the said decision was for recording of the evidence expeditiously and not for the purpose of quashing the FIR dated 27.7.1992.

5. Looking to the gravity of the allegations, the trial court observed that without giving further opportunity to the prosecution to bring its evidence on record and the proceedings cannot be terminated and looking to the directions of the High

Court on the next occasion the prosecution should ensure the presence of their witnesses and that learned Counsel for the accused should also be present in the court.

6. I do not see any illegality in the impugned order, which is also in accordance with the decision of the Apex Court decisions in P. Ramachandra Rao Vs. State of Karnataka, and State of Rajasthan Vs. Iqbal Hussain, . In these cases the Apex Court has observed that the courts should exercise their powers available such as under Sections 309, 311 and 258 Cr.P.C. to effectuate the right to speedy trial and cases cannot be quashed on mere delay.

7. With the aforesaid directions, the application is rejected.