

Court No. - 73

Case :- APPLICATION U/S 482 No. - 16241 of 2024

Applicant :- Chandrakant Tripathi

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Sengar

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. This application under Section 482 Cr.P.C. has been preferred for quashing of entire proceedings, including order dated 21.07.2023, of Session Trial No.0184 of 2023 (State of Uttar Pradesh Vs. Chandrakant Tripathi), arising out of the Complaint Case No.1647 of 1992, under Sections 194 & 211 I.P.C., Police Station- Kotwali Orai, District- Jalaun, pending before the Court of Sessions Judge, Jalaun at Orai.
3. Perusal of record shows that the applicant has lodged first information report on 20.10.1991 against one Salim under Section 302 IPC and in that matter after trial, the accused was acquitted vide judgment and order dated 10.06.1992. While acquitting the accused, the trial Court has directed to initiate proceedings under Sections 211/194 IPC against applicant on the ground that during trial the applicant has not supported prosecution version.
4. It was submitted by learned counsel for the applicant that impugned proceedings are abuse of the process of the Court. It is submitted that the said complaint under Sections 211, 194 IPC was lodged on 21.07.1992 and that since then applicant is continuously facing the trial. The charges were framed after about 30 years also and no witness has been examined so far. It was submitted that right of expeditious trial

is a fundamental right of accused and in the instant case applicant has already faced proceedings for about 32 years and no witness has been examined so far and thus the right of expeditious trial has been violated. It was stated that even in view of nature of accusation, no case is made out against the applicant and that in view of attending facts and circumstances, no useful purpose would be served by keeping the impugned proceedings pending. Learned counsel has referred case of **S.G. Nain Vs. Union of India** 1992 AIR (Supreme Court) 603, wherein proceedings under Section 409 IPC were quashed on the ground that case has remained pending for about 21 years.

5. Learned A.G.A. has opposed the application and submitted that there is no illegality or perversity in the impugned order.

6. I have considered the rival submissions and perused the record.

7. In the instant matter, it is apparent that aforesaid proceedings under Sections 194, 211 IPC were initiated against applicant vide complaint dated 21.07.1992 mainly on the ground that in Session Trial No.24/1992, the applicant being informant, has not supported prosecution version during trial. The applicant is facing the aforesaid proceedings since last 32 years and no witness has been examined so far. At this stage, it may be stated that in case of **P. Ramachandra Rao vs. State of Karnataka** (2002) 4 SCC 578, the Hon'ble Apex Court came to hold as under:-

"(1) The dictum in A.R. Antulay's case is correct and still holds the field.

(2) The propositions emerging from Article 21 of the Constitution and expounding the right to speedy trial laid down as guidelines in A.R. Antulay's case, adequately take care of right to speedy trial. We uphold and re-affirm the said propositions.

(3) The guidelines laid down in A.R. Antulay's case are not exhaustive but only illustrative. They are not intended to operate as hard and fast rules or to be applied like a strait-jacket formula. Their applicability would depend on the fact-situation of each case. It is difficult to foresee all situations and no generalization can be made.

(4) It is neither advisable, nor feasible, nor judicially permissible to draw or prescribe an outer limit for conclusion of all criminal proceedings. The time-limits or bars of limitation prescribed in the several directions made in Common Cause (I), Raj Deo Sharma (I) and Raj Deo Sharma (II) could not have been so prescribed or drawn and are not good law. The criminal courts are not obliged to terminate trial or criminal proceedings merely on account of lapse of time, as prescribed by the directions made in Common Cause Case (I), Raj Deo Sharma case (I) and (II). At the most the periods of time prescribed in those decisions can be taken by the courts seized of the trial or proceedings to act as reminders when they may be persuaded to apply their judicial mind to the facts and circumstances of the case before them and determine by taking into consideration the several relevant factors as pointed out in A.R. Antulay's case and decide whether the trial or proceedings have become so inordinately delayed as to be called oppressive and unwarranted. Such time-limits cannot and will not by themselves be treated by any Court as a bar to further continuance of the trial or proceedings and as mandatorily obliging the court to terminate the same and acquit or discharge the accused.

(5) The Criminal Courts should exercise their available powers, such as those under Sections 309, 311 and 258 of Code of Criminal Procedure to effectuate the right to speedy trial. A watchful and diligent trial judge can prove to be better protector of such right than any guidelines. In appropriate cases jurisdiction of High Court under Section 482 of Cr.P.C. and Articles 226 and 227 of Constitution can be invoked seeking appropriate relief or suitable directions.

(6) This is an appropriate occasion to remind the Union of India and the State Governments of their constitutional obligation to strengthen the judiciary-quantitatively and qualitatively by providing requisite funds, manpower and infrastructure. We hope and trust that the Governments shall act."

8. In case of **Pankaj Kumar V State of Maharashtra** AIR 2008 3077, the Apex Court held:

"17. It is, therefore, well settled that the right to speedy trial in all criminal persecutions is an inalienable right under Article 21 of the Constitution. This right is applicable not only to the actual proceedings in court but also includes within its sweep the preceding police investigations as well. The right to speedy trial extends equally to all criminal persecutions and is not confined to any particular category of cases. In every case, where the right to speedy trial is alleged to have been infringed, the court has to perform the balancing act upon taking into consideration all the attendant circumstances, enumerated above, and determine in each case whether the right to speedy trial has been denied in a given case. Where the 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, 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 for conclusion of trial."

9. In the case of **Vakeel Prasad Singh vs. State of Bihar** (2009 AIR SCW 1418), the Apex Court while reiterating the aforesaid principles, propounded the following principles:

"24. It is, therefore, well settled that the right to speedy trial in all criminal persecutions is an inalienable right under Article 21 of the Constitution. This right is applicable not only to the actual proceedings in court but also includes within its sweep the preceding police investigations as well. The right to speedy trial extends equally to all criminal prosecutions and is not confined to any particular category of cases. In every case, where the right to speedy trial is alleged to have been infringed, the court has to perform the balancing act upon taking into consideration all the attendant circumstances, enumerated above, and determine in each case whether the right to speedy trial has been denied in a given case. Where the 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, 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."

10. From the aforesaid case laws, it is apparent that speedy trial, which means reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in article 21 of the Constitution of India. Right to speedy trial and fair procedure has passed through several milestones on the path of constitutional jurisprudence. The Constitution Bench, in **A.R. Antulay's case**, formulated certain propositions and held that fair, just and reasonable procedure implicit in Article 21 of the Constitution creates a right in the accused to be tried speedily. Thus, in appropriate cases, proceedings may be quashed on the ground of long and undue delay in trial when such delay is not attributable to the accused. In the instant matter, the incident relates to the year 1991 and that accused was acquitted on 10.06.1992. The proceedings against applicant under Sections 194, 211 IPC were initiated vide complaint dated 21.07.1992. The applicant was summoned for those offences merely due to the reason that he has not supported prosecution version during trial. The applicant is facing the aforesaid proceedings under Sections 194, 211 IPC since last 32 years and no witness has been examined

so far. There is nothing to show that applicant is responsible for delay in trial. In view of these facts and circumstances it appears that it is nearly impossible to hold a fair trial of the applicant-accused after such a long time-lapse and it would be sheer waste of public time and money apart from causing harassment to the applicant-accused. Thus, the impugned proceedings against the applicant-accused are liable to be quashed.

11. In view of the aforesaid, entire impugned proceedings, including order dated 21.07.2023 of the aforesaid complaint case, against applicant-accused, namely, Chandrakant Tripathi are hereby quashed.

12. The application u/s 482 Cr.P.C. is **allowed**.

Order Date :- 9.1.2025

'SP'/-