

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 8867/2024

1. Hari Singh S/o Surajbhan, Aged About 64 Years, R/o House No. 1555, Sector 13-P, Hisar, Haryana.
2. Ashok Kumar Khanna S/o H.I.khanna, Aged About 72 Years, R/o Tyagi Vatika Jail Well Mohalla, Bikaner.

----Petitioners

Versus

State Of Rajasthan, Through Regional Forest Officer, Bhadra.

----Respondent

Connected With

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For Petitioner(s) : Mr. Vineet Kumar Jain Sr. Advocate
assisted by Mr. Pravin Vyas

For Respondent(s) : Mr. N.K. Gurjar AAG assisted by
Mr. Vikram Singh Rajpurohit, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

Reportable

03/02/2025

1. The instant Miscellaneous Petitions have been preferred for quashing the entire criminal proceedings pending before the Court of Judicial Magistrate, Bhadra, Hanumangarh. These proceedings pertain to Criminal Regular Case No. 431/2015

and Criminal Regular Case No. 430/2015, arising from alleged offences under the Forest Conservation Act, 1980 and the Rajasthan Forest Act, 1953.

2. Brief facts of the cases are that on 30.08.2002, the Regional Forest Officer filed complaints against 17 individuals before the Judicial Magistrate, Bhadra. The complaints allege that the Maharana Distributary, originating from the Amar Singh Canal and extending to Maharana Village, traverses land designated as a protected forest division. The Forest Department had undertaken afforestation and maintained the trees in the area. In June 2001, the Public Works Department (PWD) proposed constructing a road from Village Janana to Maharana without informing the Forest Department. Subsequently, during July-August 2001, without obtaining permission from the Forest Department, contractors engaged by PWD employed laborers to cut down trees along the embankments of the Maharana Distributary, which were legally protected. Since no direct witnesses could identify the individuals who felled and removed the trees, the names of laborers, contractors, and officers from the PWD and Irrigation Department were listed as accused persons. The road construction, executed without prior approval, also involved tree felling, which constitutes an offence under the Forest Conservation Act, 1980, and the Rajasthan Forest Act, 1953. Consequently, criminal complaints were lodged. After learning about the illegal tree felling, the Forest Department initiated correspondence with the relevant



authorities. However, due to non-cooperation from the concerned government departments, an inquiry was sought.

3. Compounding Applications and Proceedings:

1. Criminal Regular Case No. 431/2015

M/s Ganesh Builders, the contractor, submitted an application for compounding on 23.07.2002, stating that the offence was committed bona fide and without requisite information.

An upfront amount of ₹61,000/- was deposited with an assurance of full cooperation, including the payment of any additional amount determined through the compounding process.

Upon inquiry, the total computed amount was ₹3,73,200/-, with ₹3,12,200/- remaining unpaid.

Due to non-payment, a criminal complaint was filed, leading to the present proceedings.

2. Criminal Regular Case No. 430/2015

In a related case arising from FIR No. 781/25, M/s Ganesh Builders similarly applied for compounding on 23.07.2002.

An amount of ₹41,000/- was deposited towards compounding, with an assurance of cooperation.

Following an inquiry, the total amount due was computed as ₹2,90,400/-, with ₹2,49,400/- remaining unpaid.

The contractor's refusal to pay the outstanding amount led to the initiation of separate criminal proceedings under Section



3 of the Forest Conservation Act, 1980, and Sections 33, 42, 52, and 57 of the Rajasthan Forest Act, 1953.

4. Status of Criminal Proceedings:

The complaints resulted in criminal proceedings being instituted before the trial court in 2002, naming 14 accused persons. Upon taking cognizance, the trial court issued process against the accused, out of whom 11 have been served.



5. Notably one accused, Rajendra, preferred Criminal Revision No. 29/2019, which was allowed on 08.07.2024 by the Additional Sessions Judge, leading to the quashing of proceedings against him. Seven accused—Ram Pratap Sharma, Om Prakash, Jaswant, Nathu, Mahaveer Prasad, Subhash, and Sohan—have passed away. Their demise is recorded in the trial court's order dated 07.08.2024, and proceedings against them have been dropped.

Four accused—Devkinandan, Shiv Prasad Yadav, Sohan Lal, and Rajendra S/o Bhadar Ram—remain unserved, and process is ongoing for their presence before the trial court.

6. The legal trajectory mentioned above is sufficient enough to say that present is a case of glaring example of agony of an accused who got to attend the Court proceeding on each date of hearing with no progress in the trial, owing to the reason of adjournment for want of service upon the other accused and ofcourse for none of his fault. The alleged offence for which the trial is underway does not contain

sentence of three years and more and they are facing trial of an act which according to them, they never committed. Now, 23 years have elapsed after launching of the prosecution of a trivial nature, may be not trivial, but a serious offence that too, which as per the assertion raised in the petition, was never committed by them. Why the State Government didn't take care of coordination between their different department. Had it been informed to the Department of PWD either by the Forest Department or by any of the organ of the State of Rajasthan to not to cut down the trees for construction of the road then, there may be a different situation. Who is in fault, in this scenario, is also not ascertainable at this stage when 23 years have elapsed.



7. As a matter of fact, there is no direct evidence to say that people who have been arraigned as an accused in the criminal complaint themselves either cut down the trees or ordered to cut down the trees. Whether they were directly responsible for felling down the trees or were liable vicariously, is a further question to moot. Whether vicarious liability can be fastened upon these persons, would be a further issue of challenge.
8. Be that as it may, the long pendency of a criminal complaint without any progress till now, leaving aside commencement of the trial, in my view, certainly infringes the fundamental right of the accused. Right to have a speedy trial is recognized by Hon'ble the Supreme Court as an integral and essential part of the fundamental right of the life and liberty

under Article 21 of the Constitution of India. It is not known today and out of speculation that when the remaining named accused of the criminal complaint would be served and when the trial would commence and thus the same is still a mysterious question. It is the settled principle of Criminal Jurisprudence that until the guilt is proven, an accused should be presumed innocent. Meaning thereby, the petitioners before this Court are innocent now but facing the rigors of trial, mental agony and physical turbulence for attending the Court proceeding for more than two decades and that too with no fault of them



9. It is imperative to underscore that the High Court possesses inherent powers under Section 482 Cr.P.C. to prevent the abuse of the process of law and to secure the ends of justice. Even in cases where some of the accused have not approached the Court seeking quashing, the High Court, in exercise of its extraordinary jurisdiction, is not precluded from quashing the entire proceedings, particularly when the continuation of prosecution serves no legitimate purpose and the fact has brought before it.
10. It is an axiomatic principle of law that justice must not only be done but must also be seen to be done. The Court, while exercising its inherent jurisdiction under Section 482 Cr.P.C., cannot permit a scenario where only those who have approached this Court receive relief, while others—who may be similarly placed but have been unable to appear before this Court—are left to languish in legal limbo. The scales of

justice cannot be tilted in favor of those with the means and knowledge to seek redress, while those who are either unaware of their legal rights or constrained by their socio-economic conditions are deprived of the same relief.

11. Furthermore, the legal conscience of this Court does not permit an unjust dichotomy where those who have been served and have appeared before the Court are granted relief, but others—against whom process is still underway—are left to the vagaries of fate, awaiting service, and facing indeterminate prosecution. The inordinate delay in effecting service upon some of the accused should not be a reason to perpetuate their suffering, forcing them to await their turn in the trial court, seek bail, and ultimately approach this Court at a later stage. Such a fragmented approach to justice is antithetical to the very fabric of legal propriety.



12. It is equally pertinent to acknowledge that some of the unserved accused persons may be individuals of limited financial means—possibly laborers or persons lacking adequate legal assistance. The fundamental right to legal aid under Article 39A of the Constitution mandates that no person should be denied access to justice merely due to poverty or ignorance. The possibility that some accused persons have not appeared due to their socio-economic vulnerabilities must be taken into account, and their absence should not be construed as a waiver of their right to seek justice.

13. In such a legal matrix, it would be wholly unjust to quash proceedings only for the petitioners who have approached this Court while allowing the prosecution to continue against those who have not yet been served or have not appeared due to their personal constraints. This Court, in the exercise of its plenary jurisdiction, possesses the inherent authority to prevent such an incongruous outcome. The power under Section 482 Cr.P.C. is designed precisely to rectify such instances of procedural inequity and to secure the ends of justice. If the substratum of the prosecution itself has been found untenable due to lack of evidence and prolonged delay, there exists no justification to sustain proceedings against some accused while terminating them for others.



14. The cardinal principle of "*audi alteram partem*" dictates that no person should be condemned unheard. However, in cases where the proceedings are found to be inherently flawed and oppressive, the Court is not precluded from extending relief *suo motu* to all similarly situated persons, even in their absence. Any differentiation at this stage would amount to an arbitrary classification, devoid of any rational nexus with the object sought to be achieved, thus violating the touchstone of reasonableness as laid down in ***Maneka Gandhi v. Union of India, (1978) 1 SCC 248***.

15. This Court is of the considered opinion that allowing the prosecution to continue against those who have not yet been served, or who, due to their disadvantaged position, have been unable to approach this Court, would be manifestly

unjust. Justice cannot be a privilege reserved for the well-informed or well-represented; it must be equally accessible to all, irrespective of their socio-economic standing.

16. This Court deems it just and proper to extend the benefit of the present order *in rem* to all accused persons, irrespective of whether they have approached this Court or not, so as to uphold the principles of fairness, equity, and natural justice.



17. In the present case, the original complaint was lodged in the year 2002, and the criminal proceedings have remained pending for over 23 years. Several accused have already passed away, and a significant number remain unserved despite repeated attempts at issuing process. This prolonged stagnation of trial is a glaring violation of the fundamental rights of the accused, as recognized under Article 21 of the Constitution of India. It is well settled that a criminal trial cannot be allowed to linger indefinitely, especially when the foundational aspects of fair trial and timely justice are compromised beyond repair.

18. Thus, even for those accused who have not approached this Court, the inherent powers vested in this Court enable it to quash the proceedings *suo motu*, considering the sheer futility of the prosecution and the irretrievable delay that renders any trial nugatory.

19. Another critical issue that weighs heavily with this Court is the very feasibility of conducting a trial after such an extraordinary lapse of time. Even assuming, for the sake of

argument, that the prosecution is permitted to continue, a fundamental question arises—who would substantiate the charge?

20. Given that the complaint was lodged in 2002 for an incident alleged to have occurred in 2001, there exists an undeniable possibility that many of the key witnesses, including the complainant, may either be deceased now or otherwise unavailable. In the event that they are still alive, the question remains—how accurately would they recall the details of an incident that occurred 25 years ago? The reliability of their testimony is naturally compromised due to the passage of time.



21. The physical condition of the spot where the alleged offence took place has undeniably undergone significant changes over the past two decades. The geographical, environmental, and structural landscape of the disputed area would have transformed considerably, rendering any spot identification and evidentiary assessment an exercise in speculation rather than factual determination.

22. The cardinal principle of criminal jurisprudence dictates that an accused can only be convicted on the basis of cogent, credible, and unimpeachable evidence. However, when the substratum of the prosecution case itself is in doubt due to the non-availability of direct evidence, the absence of witnesses, and the irreversible change in the physical condition of the scene of the incident, any furtherance of trial

would amount to a mere formality devoid of any meaningful purpose.

23.It, therefore, appears that even if the trial is conducted, the entire exercise would be nothing more than an academic or futile exercise, given the insurmountable challenges in proving the allegations beyond reasonable doubt.

24.In the present case, the accused, who have neither been convicted nor even put to trial after 23 years, have endured immense mental agony, financial burden, and social stigma for an act they assert was never committed by them. More so, the delay is not attributable to them but rather to systemic inefficiencies and procedural bottlenecks. Keeping the proceedings alive, under such circumstances, would be nothing short of a travesty of justice.

25.Considering the above discussion, it is evident that:

- 1.There exists no reasonable possibility of a fair and meaningful trial after 23 years.
- 2.The continuation of proceedings would serve no purpose, given the absence of substantive evidence and the non-availability of key witnesses.
- 3.The right of the accused to a speedy trial under Article 21 has been irretrievably violated.

26.Accordingly, the instant Misc. Petitions are allowed and entire criminal proceedings in Criminal Regular Case No. 431/2015 (Original Complaint No.4/2003) and Criminal Regular Case No. 430/2015 (Original Complaint No.3/2003) pending before the learned Judicial Magistrate, Bhadra,



Hanumangarh, are hereby quashed. This quashing shall extend not only to the accused who have approached this Court but also to those who have not yet availed such remedy. Furthermore, it shall apply to individuals who have not been served. All are exonerated from the charges.

27. The stay petitions disposed of.



(FARJAND ALI),J