

Devi Singh Vs. the State of Rajasthan

Devi Singh Vs. the State of Rajasthan

SooperKanoon Citation : sooperkanoon.com/760717

Court : Rajasthan

Decided On : Dec-17-1990

Reported in : 1990(2)WLN578

Judge : B.R. Arora, J.

Appeal No. : S.B.Cri. Misc. April. No. 446 of 1990

Appellant : Devi Singh

Respondent : The State of Rajasthan

Disposition : Petition allowed

Judgement :

B.R. Arora, J.

1. This miscellaneous petition is directed against the order dated December 22, 1987, passed by the Sessions Judge, Pali, in Criminal Revision No. 60 of 1983, arising out of the order dated May 16, 1983, passed by the Judicial Magistrate, Pali, by which the learned Magistrate framed the charges Under Section 419, IPC against the petitioner.

2. The incident, which led to the prosecution of the petitioner, took place on August 2, 1975, and the First Information Report of this incident was lodged at the Police Station, Pali, on August 8, 1975. It is alleged in the First Information Report that on

August 2, 1975, a type-test for appointment on the post of Typist cum Clerk was held in the Office of the District and Sessions Judge, Pali, in which the petitioner impersonating himself as Bhanwar Singh and Alok Kumar, appeared on their behalf in the said type-test. On basis of this report, the police, after necessary investigation, presumed the challan against the petitioner, Bhanwar Singh and Alok Kumar in the Court of the Judicial Magistrate, Pali. Though the challan was filed in the, year 1975, but the learned Magistrate, framed the charges against the petitioner Under Section 419, IPC on March 14, 1983. Dissatisfied with the order, passed by the learned Magistrate, framing the charge, the petitioner preferred a revision petition before the learned Sessions Judge, Pali, who by his order dated December 22, 1987, dismissed the revision petition. The petitioner has filed this petition Under Section 432, Cr. PC for quashing the proceedings pending against the petitioner in the Court of the Additional Chief Judicial Magistrate, Pali as well as for quashing the charge framed against him.

3. I have heard the learned Counsel for the petitioner and the learned Public Prosecutor, and gone through the complete order-sheets of the case, which have been placed on record by the learned Counsel for the petitioner.

4. It is contended by the learned counsel for the petitioner that there was no material on record, on the basis of which the charge Under Section 419, IPC could have been framed against the petitioner. The learned Counsel for the petitioner further submitted that the trial in this case has been prolonged and not even a single witness has been examined since the presentation of the challan, which was submitted in the Court on August 2, 1975. More than fifteen years have elapsed, but the trial has not yet been started even. The offence Under Section 419, IPC, with which the petitioner has been charged, is only punishable for a term extended to three years or with fine or with both. According to him this delayed trial has taken-away the constitutional right guaranteed to the petitioner under Article 21 of the Constitution of India. The learned Public Prosecutor, on the the other hand, has supported the order passed by the learned lower Court and has, also, submitted that the trial could not be completed looking to the work piledup in the Court.

5. I have considered the rival submissions made by the counsel for the parties.

6. It is not in dispute that the alleged incident took place on August 2, 1975 and the challan was presented in the Court on August 22, 1975. Though the challan was filed on August 22, 1975, but the report of the Handwriting Expert could not be received by the Court upto August 7, 1982, and, therefore, the charge could not be framed upto March 4, 1983. The trial Court took about eight years in framing the charge itself. Even after March 4, 83, not even a single witness has been examined by the Court and the case has been adjourned on one ground or the other. The trial has been delayed for 15 years and in the real sense, it has not yet commenced, which was not on account of any fault of the part of the petitioner. The trial has been unnecessarily delayed for about 15 years and still it is not sure how much time it will take for the conclusion of the trial. It will not be out of place to mention here that the Munsif and Judicial Magistrate, First Class, Pali, which was thereafter transferred to the Court of the Chief Judicial Magistrate, Pali, and from there the case has recently been transferred to the Court of the Additional Chief Judicial Magistrate, Pali.

7. Every accused has a fundamental right for speedy trial and if the accused is not tried speedily and the case remains pending before the Court for unreasonable length of time, i.e., for about 15 1/2 years, then there is a violation of this fundamental right guaranteed under Article 21 of the Constitution of India. A speedy trial is a sine qua non of Article 21 of the Constitution of India and keeping a person in suspension state for 15 1/2 years without any rhyme or reason cannot be the spirit of the procedure established by law. The sword of Democles cannot be allowed to remain hanging over the head of the accused person for an indefinite period. The offence, with which the petitioner has been charged in this case, is Under Section 419, IPC which is punishable with imprisonment extending to three years or with fine or with both. Looking to the nature of the case, the attending circumstances and the delay in the trial, which has been prolonged for 15 1/2 years, I am of the opinion that it will be an abuse of the Court in allowing the proceeding to continue in the trial Court.

8. In this view of the matter, I allow this miscellaneous petition and quash the proceedings in Criminal Case No. 51 of 1990, pending in the Court of the Additional Chief Judicial Magistrate, Pali. (The State of Rajasthan v. Devi Singh).

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com