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

Subir Kumar Basu Vs. State

Subir Kumar Basu Vs. State

SooperKanoon Citation : sooperkanoon.com/853976

Court : Kolkata

Decided On : Jan-20-2006

Reported in : 2006(2)CHN326

Judge : P.N. Sinha, J.

Acts : Constitution of India - Articles 21, 226 and 227; ;Code of Criminal Procedure (CrPC) , 1973 - Sections 258, 309, 311 and 482; ;Indian Penal Code (IPC), 1860 - Sections 120B and 420

Appeal No. : C.R.R. No. 2399 of 2001

Appellant : Subir Kumar Basu

Respondent : State

Advocate for Def. : Barin Roy, Adv.

Advocate for Pet/Ap. : Ashim Kumar Roy, Adv.

Disposition : Appeal dismissed

Judgement :

P.N. Sinha, J.

1. This revisional application under Section 482 of the Criminal Procedure Code (hereinafter called the Code) has been filed by the petitioner aiming at quashing

the criminal proceeding being Case No. 4 of 1985 now pending in the Court of the learned Judge, 5th Special Court, Calcutta under Section 420/120B of the Indian Penal Code (in short IPC) and for setting aside the order dated 30.7.1985 passed by the said learned Judge taking cognizance of offence.

2. Mr. Ashim Kumar Roy, learned Advocate for the petitioner submitted that the aforesaid case arose out of Park Street Police Station (in short P.S.) Case No. 126 dated 5.3.1981 under Section 420/120B of the IPC. After registration of the said case, a search and seizure was conducted by Calcutta Police on 6.3.1981 at the office premises of Central Group and police officers seized number of documents. The petitioner moved this Court in writ jurisdiction for quashing the criminal investigation and Tarun Kumar Basu, J. was pleased to quash the investigation by order dated 24.5.1982. Against the said order the State Government preferred an appeal before a Division Bench of this Court and the Appeal Court affirmed the order of quashing investigation by judgment dated 22.7.1983. Against the order of the Appellate Court dated 22.7.1983 the State preferred an appeal before the Hon'ble Supreme Court. The Hon'ble Supreme Court directed that the investigation will continue but, no final report shall be filed without the leave of the Supreme Court.

3. Mr. Ashim Kr. Roy also contended that the investigating agency without taking leave of the Supreme Court filed chargesheet before the appropriate Court. Thereafter, the Supreme Court by order dated 19.7.1985 observed that since chargesheet has already been filed nothing survives in this appeal and hence, the judgment of the High Court will not affect further proceedings being taken on the basis of the chargesheet. The learned Judge by order dated 30.7.1985 on receipt of chargesheet took cognizance of offence. Mr. Roy contended that surprisingly according to provisions of the Code copies of vital material documents were not supplied to the accused persons including the petitioner. Thereafter by order No. 47 dated 11.3.1989 the learned Trial Judge directed the prosecution to supply copies of the documents which are relevant for the ends of justice and over which the prosecution will place reliance during trial. Mr. Roy also contended that being aggrieved by the order of the learned Trial Judge the State preferred revisional application before this Court being Criminal Revision No. 9 of 1990 wherein a rule

was issued directing stay of operation of the impugned order. The criminal revision application was dismissed by this Court in 2000 which fact becomes clear from order No. 92 dated 18.12.2000 passed by the learned Trial Court. The learned Trial Court in the said order observed that the rule was discharged and the High Court has directed to conclude the trial with utmost expedition and 31.1.2001 was fixed for appearance of the accused persons.

4. Mr. Roy further submitted that order No. 94 dated 28.2.2001 passed by the learned Trial Court reveals that on that date accused persons appeared in Court but nobody appeared for the prosecution. It appears from the records of the learned Court below that the Investigating Officer (in short IO) since retired from service, the Court directed the Officer-in-Charge of both Park Street P.S. and Anti-Cheating Section, Detective Department, Calcutta to take steps for engaging an officer to look after the case and for engaging Public Prosecutor to proceed with the trial. It is apparent from the records of the learned Court below that the said case is still pending and not a single witness has been examined. Mr. Roy also contended that the prosecution did not supply copies of relevant papers and documents to the petitioner as yet in spite of specific direction of the Trial Court. He submitted that though the case was started on 5.3.1981 no charge has not yet been framed. The order dated 11.3.1989 is modified order of the learned Trial Court passed earlier on 17.9.1988. If the copies of the relevant papers and documents are not supplied to the petitioner, petitioner would be seriously prejudiced and he would not be able to prepare his defence.

5. Mr. Roy also submitted that provisions of the Article 21 of the Constitution has been violated as the said Article provides right of speedy trial. In catena of decisions the Hon'ble Supreme Court, this Court and other High Courts have held that an accused has a fundamental right of speedy trial as provided in Article 21 of the Constitution and violation of this fundamental right may be a ground for quashing of criminal proceeding if the case is pending for several long years. Mr. Roy submitted that in the instant case copies of relevant papers and documents were not yet supplied, charge has not yet been framed and not a single witness has been examined. The accused petitioner has suffered enormous financial hardship, physical harassment, mental agony and pendency of the case for the

last 24 years without framing charge is a valid ground for quashing the criminal proceeding. Mr. Roy submitted that the delay has been caused only for the conduct of the State, that is, the prosecution and this is a fit case where this Court should exercise and invoke its jurisdiction and inherent power under Section 482 of the Code to quash the criminal proceeding as continuation of the said criminal proceeding is an abuse of the process of law. In support of his contention Mr. Roy cited the decisions namely Abdul Rehman Antulay v. R.S. Nayak reported in : 1992 CriLJ2717 ; S.N. Chowdhury v. State of West Bengal reported in 2001 C Cr. LR (Cal) 90; Monoranjan Hor v. State and Anr. reported in 1999 C Cr. LR (Cal) 486; V.Z. Job v. State of West Bengal reported in 1999 C Cr. LR (Cal) 393; Pradip Mitra v. State of West Bengal reported in 2003 C Cr. LR (Cal) 721; Narash Ch. Joarder v. State of West Bengal reported in 2004 C Cr. LR (Cal) 436; Animesh Ch. Sengupta v. State of West Bengal reported in 2004 C Cr. LR (Cal) 502; P. Ramchandra Rao v. State of Karnataka reported in 2002 C Cr. LR (SC) 497 and State of Rajasthan v. Ikbal Hussen reported in 2004(4) All India Criminal Law Reporter 664.

6. Mr. Barin Roy, learned Advocate appearing for the State of West Bengal submitted that the Park Street P.S. Case No. 126 dated 5.3.1981 was started against the petitioner and another for commission of offence of conspiracy and cheating the Government relating to works on sewerage system of entire Calcutta costing of Rs. 2.40 crores out of which more than Rs. 1.70 crores were already delivered to the accused persons. During search huge number of documents, books of accounts, files, copies, maps, charts etc., were seized from the possession of the accused persons. On 25.3.1981 the petitioner moved a writ petition before this Court and a learned Single Judge by order dated 24.5.1982 quashed the said criminal proceeding and investigation. Mr. Roy submitted that challenging the said order the State preferred an appeal before a Division Bench of this Court but the Division Bench by order dated 22.7.1983 dismissed the appeal. Challenging the order of the Division Bench the State preferred Special Leave Petition before the Hon'ble Supreme Court and the Hon'ble Supreme Court finally disposed of the appeal and SLP by order dated 19.7.1985 and directed that since chargesheet has already been filed the criminal proceeding should be continued and an order of the High Court would not affect continuation of further

proceeding in the Trial Court on the basis of the chargesheet.

7. Mr. Roy also submitted that thereafter learned Trial Court by order dated 30.7.1985 took cognizance of offence and issued summons against the accused persons including the petitioner. On 5.8.1985 the accused persons filed petitions for supplying copies of entire materials, records and documents of the case. Copies of relevant documents were supplied to the petitioners but in spite of that, both the accused persons by filing petitions dated 29.8.1986, 23.12.1987 and 23.3.1988 prayed for supplying copies of 84 items and 123 items of papers and documents respectively including maps, charts, files, etc., Mr. Roy also contended that in spite of supplying some of the copies the accused petitioners contended that those were not legible and demanded fresh copies. After hearing the parties the learned Trial Court by order dated 17.9.1988 passed direction to the prosecution to supply some more copies over which prosecution wants to place reliance and also passed order for inspection of some documents which are voluminous. The prosecution preferred objection and thereafter, the learned Trial Court by order dated 11.3.1989 modified his earlier order dated 17.9.1988 and directed prosecution to supply documents of 13 items to accused No. 1 and 10 items to accused No. 2 and also allowed the accused persons to have inspection of documents of 10 items with observation that documents of 35 items had already been supplied by the prosecution to the accused persons. Mr. Roy contended that being aggrieved by, and dissatisfied with, the order dated 11.3.1989 the State preferred a criminal revisional being CRR No. 9 of 1990 and this Court passed order staying further proceeding of the case pending in the Trial Court.

8. Mr. Roy further submitted that Mr. Somnath Chatterjee was the Special Public Prosecutor and thereafter Arun Prakash Chatterjee, the then Standing Counsel was engaged to conduct the case as Special Public Prosecutor in the Trial Court and also was representing the State in the revisional application before this Court. Mr. Arun Prakash Chatterjee suffered unnatural death on 16.11.2000 and, when the revisional application being CRR No. 9 of 1990 appeared in the list for hearing nobody appeared for the State and the rule was discharged by order dated 21.11.2000. After death of Arun Prakash Chatterjee, Mr. Monoranjan Ghosh was appointed Special Public Prosecutor in September, 2001. Mr. Roy also contended

that since thereafter occasionally the Court of the learned Special Judge was lying vacant. In the meantime prosecution has prepared copies of some documents in compliance with the direction of the learned Trial Court which are ready for handing over to the accused persons. Moreover, it is clear that this Court by order dated 25.9.2002 called for records of the Trial Court and since then the records of the Trial Court are lying in this Court.

9. Mr. Roy further argued before me that the delay has been caused not for the laches or negligence of the prosecution but, delay has been caused as the petitioner moved this Court in writ application immediately after starting of investigation and thereafter the matter went up to the Hon'ble Supreme Court and finally the Supreme Court disposed of the appeal by order dated 19.7.1985. Thereafter, being aggrieved by the order of the learned Trial Court dated 11.3.1989 the State preferred criminal revision before this Court in the year 1990 and further proceeding in the Trial Court was stayed by order of this Court. Finally the criminal revision was dismissed and the rule was discharged by order dated 21.11.2000. Thereafter, this revisional application was filed by petitioner and this Court called for the Lower Court Records by order dated 25.9.2002 and since then the Lower Court Records are lying in this Court. Mr. Roy submitted that it is thus clear that since 25.3.1981 to 19.7.1985 and again from January, 1990 till 21.11.2000 the Trial Court could not proceed with the matter as the accused petitioner move this Court which went up to the Supreme Court, and thereafter, in 1990 the State preferred a criminal revisional application. Thereafter from 25.9.2002 up to this date the Trial Court could not proceed with the trial as the records are lying in this Court. It is thus clear that though 24 years have passed in the meantime, in fact, 4 years (25.3.1981 to 19.7.1985) + 10 years (January, 1990 to 21.11.2000) that is for 14 years the Trial Court could not proceed due to filing of appeal, criminal revision etc., by either of the parties. Thereafter for the last three years since 25.9.2002 the Lower Court Records are lying in this Court and thus 17 years out of 24 years were spent for litigation between the parties due to filing of writ petition, appeal. Special Leave Petition in the Supreme Court, and criminal revision in this Court and thereafter receipt of Lower Court Records in this Court. It thus shows that the delay was not due to fault or laches or negligence of the prosecution.

10. Mr. Roy also contended that delay has been caused due to the different legal procedures and methods adopted either by the petitioner or by the State. Mr. Roy also submitted in the instant matter there was no violation of provisions of Article 21 of the Constitution. The decisions of the Hon'ble Supreme Court in Abdul Rehman Antulay v. R.S. Nayak (supra) and the State of Rajasthan v. Ikbal Hussen (supra) are important. These decisions make it clear that there cannot be any time-limit for disposed of criminal proceedings. The Supreme Court also made it clear that there cannot be application of statute of limitation in criminal side relating to economic offences and corruption by high public servants. The instant case squarely falls within corruption by high public servant and economic offence as State was cheated by the accused persons in respect of more than one crore of rupees. Mr. Roy finally submitted that the revisional application should be dismissed and the learned Trial Court may be directed to dispose of the trial expeditiously after supplying relevant copies to the accused persons which are ready for supplying to the accused persons.

11. I have duly considered the submissions made by the learned Advocates for the parties and perused carefully the revisional application and the materials on record. It is true that the Special Case No. 4 of 1985 now pending in the Court of the learned Judge, 5th Special Court, Calcutta arose out of registration of FIR at Park Street P.S. being case No. 126 dated 5.3.1981 under Sections 420 and 120B of the IPC. It is undisputed that since the date of registration of FIR, 24 years have passed; the criminal proceeding has not been concluded and even charge has not yet been framed, and naturally, question of examination of witnesses for the prosecution is far cry. It is equally true that Article 21 of the Constitution guarantees speedy trial of cases. There is no doubt that, pendency of the case for the last 24 years have caused mental agony, humiliation and harassment to the petitioner. At the same time, the law is now well-settled that in criminal matters there cannot be any time limit for disposal of cases. Undoubtedly true, the learned Advocate for the petitioner Mr. Ashim Kr. Roy placed before me several decisions to show that in the said reported decisions the Hon'ble Supreme Court and this Court quashed the criminal proceedings due to long pendency of the cases when the Courts found that the fundamental right of speedy trial as enshrined under Article 21 of the Constitution was not followed. Under this background let me

consider whether in the facts and circumstances of the present case the accused petitioner is entitled to the relief as prayed for quashing the criminal proceeding in view of violation of the fundamental right of speedy trial as enshrined under Article 21 of the Constitution.

12. In coming to the conclusion as to whether this Court in this case would exercise its inherent jurisdiction under Section 482 of the Code coupled with the fundamental right of speedy trial under Article 21 of the Constitution it requires mention of some salient features and facts and circumstances of the case. After going through the history or the background of the case of different dates, I find that this case has a chequered history and the prosecution cannot be blamed for the delay. Immediately after registration of FIR on 5.3.1981 during course of investigation several documents were seized. On 25.3.1981 the accused petitioner moved a writ petition before this Court for quashing the aforesaid criminal case and investigation. A learned Single Judge of this Court by order dated 24.5.1982 quashed the FIR and investigation. The State of West Bengal preferred an appeal against the said order but, a Division Bench of this Court by order dated 22.7.1983 dismissed the appeal preferred by the State in F.M.A. No. 1608 of 1982. The State then moved the Hon'ble Supreme Court in Special Leave Petition i.e. SLP (Civil) No. 14334 of 1983. The Hon'ble Supreme Court finally disposed of the SLP and appeal by order dated 19.7.1985 with the direction that since chargesheet had already been filed, the order of the High Court would not affect continuation of further proceeding of the trial on the basis of chargesheet.

13. The learned Trial Court thereafter took cognizance of offence by order dated 30.7.1985 and issued summons against the accused persons. On 5.8.1985 the accused persons filed petitions before the learned Trial Court for supplying copies of entire materials on record of the case. Copies of several papers and documents were supplied to the accused persons but, in spite of that, both the accused persons filed several petitions on different dates namely 29.8.1986, 14.12.1987, 23.12.1987, 23.3.1988 and 27.4.1988 and prayed for supplying copies of 84 items and 123 items respectively. The learned Trial Court by order dated 11.3.1989 directed the prosecution to supply copies of documents of 13 items to accused No. 1 and 10 items to accused No.2 and last three paragraphs of the order dated

11.3.1989 lying in the records of the learned Trial Court would reveal what was the direction of the learned Trial Court to the prosecution relating to supply copies of which papers and documents. It further appears that the learned Trial Court in the said order passed direction to give inspection of original documents mentioned in serial No. 79, the maps, drawing, etc., attached to the documents mentioned in serial No. 82, both serial numbers being of the list attached to the petitions of accused No. 1 filed on 29.3.1986 and give inspection of original documents mentioned in serial Nos. 54, 56, 61, 62, 63, 64, 69, 72, 120 and 122 of the list attached to the petition of accused No. 2 filed on 14.12.1987 and also give inspection of the original documents of which copies have already been supplied at pages 237, 239, 252, 255, 280, 281, 290, 294, 295, 296, 348, 354 to 360, 361, 362, 363, 364, 365, 366, 367, 368, 413, 414, 502, 507, 508, 513, 514 to 518, 522 and 523 of the documents already supplied to the accused persons. The order dated 11.3.1989 was passed by the learned Trial Court modifying his earlier order No. 39 dated 17.9.1988.

14. The State being dissatisfied with the order dated 11.3.1989 preferred a criminal revision before this Court on 24.1.1990 and this Court directed stay of further proceeding of the criminal case in the Trial Court. Finally, the criminal revisional application being CRR No. 9 of 1990 was dismissed on 21.11.2000 as nobody appeared before this Court for the State. Thereafter, the matter remained pending in the Trial Court at the stage of supplying copies as directed by the learned Trial Court by his order dated 11.3.1989. During pendency of the said case in the Trial Court, the accused petitioner moved this Court again in another revisional application being CRR No. 1399 of 2001 and this Court by order dated 15.3.2002 directed stay of all further proceeding of the case pending before the Trial Court. Later on by order of this Court dated 25.9.2002 the records of the learned Trial Court were called for in this Court and the learned Trial Court by order dated 8.10.2002 sent the Lower Court record to this Court. Since then the matter is pending in this Court and the Lower Court records are lying in this Court.

15. Considering the entire background, I am firm in my opinion that, the decisions placed by the learned Advocate for the petitioner do not help the petitioner at all and are not applicable in the facts and circumstances of the present case. It is not

a case where this Court can come to the conclusion that fundamental right of speedy trial as enshrined under Article 21 of the Constitution was violated and the accused petitioner was denied speedy trial. In this connection the decision of the Hon'ble Supreme Court in the landmark judgment of Abdul Rehman Antulay v. R.S. Nayak (supra) is very pertinent and apposite. Subsequently the decision of the Constitution Bench of the Hon'ble Supreme Court in P. Ramchandra Rao v. State of Karnataka (supra), and another decision of the Supreme Court in State of Rajasthan v. Ikbal Hussen (supra) are also important and in these decisions the Hon'ble Apex Court laid down some guidelines in such matter.

16. In Abdul Rehman Antulay v. R.S. Nayak (supra) it was observed by the Hon'ble Supreme Court that, 'It is neither advisable nor practicable to fix any time-limit for trial of offences. Any such rule is bound to be qualified one. Such rule cannot also be evolved merely to shift the burden of proving justification on to the shoulders of the prosecution. In every case of complaint of denial of right to speedy trial, it is primarily for the prosecution to justify and explain the delay. At the same time, it is the duty of the Court to weigh all the circumstances of a given case before pronouncing upon the complaint. The Supreme Court of USA too has repeatedly refused to fix any such outer time limit in spite of the Sixty Amendment. Nor it can be said that non-fixing any such outer limit ineffectuates the guarantee of right to speedy trial'.

17. In P. Ramchandra Rao (supra) a Constitution Bench of seven Judges of the Hon'ble Supreme Court held that, 'For all foregoing reasons, we are of the opinion that in Common Cause case (I) : 1996 CriLJ2380 (as modified in Common Cause case(II) : : AIR 1996 SC3538 and Raj Deo Sharma (1) : 1998 CriLJ4596 and (II) : 1999 CriLJ4541 the Court could not have prescribed periods of limitation beyond which the trial of a criminal case or a criminal proceedings cannot continue and must mandatorily be closed followed by an order acquitting or discharging the accused. In conclusion we hold:

(1) The dictum in A.R. Antulay case : 1992 CriLJ2717 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 case (supra) adequately take care of right to speedy trial. We uphold and reaffirm the said propositions.

(3) The guidelines laid down in A.R. Antulay 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 case (I), Raj Deo Sharma cases (I) and (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 then 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 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 the Criminal Procedure Code to effectuate the right to speedy trial. A watchful and diligent Trial Judge can prove to be a better protector of such right than any guidelines. In appropriate case, jurisdiction of the High Court under Section 482 Cr. PC and Articles 226 and 227 of the Constitution can be invoked seeking appropriate relief or suitable directions.

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 Government shall Act.

18. In State of Rajasthan v. Ikbal Hussen, the Hon'ble Supreme Court reiterated the legal principle pronounced by it in the case of Abdul Rehman Antulay (supra). In this decision the Hon'ble Supreme Court observed that, 'The concept of delay must be totally different depending on the class and character of the accused and the nature of his offence, the difficulties of a Private Prosecutor and the leanings of the Government.

The Court must respect legislative policy unless the policy is unconstitutional.

Statutes of limitation, limited though they are on the criminal side do not apply to:

(a) Serious offences punishable with more than three years imprisonment;

(b) All economic offences.

Corruption by high public servants is not protected for both these reasons.

Right to speedy trial is not a right not to be tried. Secondly it only creates an obligation on the prosecutor to be ready to proceed to trial within a reasonable time; ....

The following kinds of delay are to be totally ignored in giving effect to the plea of denial of speedy trial:

(A) Delay wholly due to congestion of the Court calendar; unavailability of Judges, or other circumstances beyond the control of the prosecutor.

(B) Delay caused by the accused himself not merely by seeking adjournments but also by legal devices which the prosecutor has to counter.

(C) Delay caused by orders, whether induced by the accused or not of the Court necessitating appeals or revision or other appropriate actions or proceedings....

A plea that proceeding against him be quashed because delay has taken place is not sustainable if the record shows that he acquiesced in the delay and never asked for an expeditious disposal. In India the demand rule must be rigorously enforced. No one can be framed to complain that speedy trial was denied when he never demanded it.

19. Analysing the legal principles as stated above, under the background of facts and circumstances of this case, I am clearly of opinion that right to speedy trial as guaranteed under Article 21 of the Constitution was not denied in this case. After registration of FIR on 5.3.1981 the investigation was stopped by order of this Court as the accused moved writ petition in this Court on 25.3.1981 which finally reached culmination by the order of the Hon'ble Supreme Court dated 19.7.1985. Thereafter on 24.1.1990, the State preferred a criminal revision in this Court being CRR No. 9 of 1990 and proceeding of the Trial Court was stayed by order of this Court, and finally, the revisional application was dismissed on 21.11. 2000. Thereafter the accused petitioner moved this Court for quashing the criminal proceeding by filing the present revisional application on 3.10.2001 and this Court by order dated 15.3.2002 against stayed further proceeding of the case in the Trial Court. Not only that, this Court by order dated 25.9.2002 called for the records of the Trial Court and thereafter, the records of the Trial Court are now lying in this Court.

20. It is thus clear that from 25.3.1981 to 19.7.1985, from 24.1.1990 to 21.11.2000 and again from 3.10.2001 upto this date the matter remained pending either in this Court or in the Supreme Court and by the orders of the Superior Court progress of trial in the Trial Court was stayed. In my opinion, in the present criminal proceeding delay has been caused under the circumstances beyond the control of prosecution and delay was caused by different orders of Superior Court. It further appears from the Lower Court Record that sometimes the Court was lying vacant as there was no Presiding Officer and that also caused delay. Accordingly there was no laches or negligence by the prosecution in this case. I find no ground at all to quash the criminal proceeding and I am firm in my opinion that in this case right guaranteed under Article 21 of the Constitution was not violated. Out of the last 24 years since registration of FIR almost 18 years were consumed either by the

accused or by State in filing revisional applications, appeals etc., either in this Court or in the Hon'ble Supreme Court.

21. Delay has been caused for the circumstances beyond control of the prosecution and for different orders of Superior Court. The accused petitioner is not at all entitled to take advantage of this situation as for the last four years delay has been caused by him as he preferred the instant revisional application.

22. Moreover, in this case the alleged offence would come within purview of economic offence read with corruption by high public servant. Question of limitation or quashing this proceeding does not arise at all when it is apparent that delay was caused also for legal devices adopted by this petitioner.

23. In view of the discussion made above I find no ground at all to quash the criminal proceeding. The revisional application having no merit fails and stands dismissed.

24. The learned Trial Judge, that is, the learned Judge, 5th Special Court, Calcutta is directed to supply copies as far possible in terms of order dated 11.3.1989 and would also allow inspection as directed by him in the said order. I make it more clear that copies of papers and documents over which prosecution would not place any reliance need not be supplied to the accused. As it appears that papers and documents consisting of more than three almirahas were seized copies of voluminous documents need not be supplied and inspection should be allowed in respect of voluminous documents over which prosecution would place reliance. I also direct the learned Trial Court to supply copies within three months from the date of communication of this order and thereafter to dispose of the criminal case as expeditiously as possible and preferably within one year after supply of copies of relevant papers and documents and giving inspection of papers and documents to the accused persons.

25. All interim order of stay passed earlier stand vacated.

26. Criminal Section is directed to send down the Lower Court Record along with copy of judgment and order to the learned Judge, 5th Special Court, Calcutta for

information, compliance and necessary action.

Later:

27. Urgent xerox certified copy be given to the parties, if applied for, expeditiously on payment of requisite fees.

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