

Criminal Revision
Present: **The Hon'ble Justice Ashim Kumar Roy**
Judgment on: 10.03.2010
C.R.R. No. 483 of 2010

Ramendu Sekhar Rath
versus
The State of West Bengal

Point:

SPEEDY TRIAL: Speedy trial whether a fundamental right of an accused –Constitution of India, Art. 21, Code of Criminal Procedure, S. 483.

Fact: The petitioner, who has been facing his trial under Sections 147/148/149/323/325 of the Indian Penal Code has filed the instant application by invoking Section 483 of the Code of Criminal Procedure, for a direction for expeditious conclusion of their trial.

Held:

It is the fundamental right of the accused guaranteed under Article 21 of the Constitution to have a speedy trial. (Paragraph – 5)

For Petitioner : Mr. Partha Pratim Sarkar

For State : Mr. Amajit De

The Court: Invoking Section 483 of the Code of Criminal Procedure, the petitioner has moved this Court for a direction for expeditious conclusion of the trial relating to G.R. (E) Case No. 94 of 2003 arising out of Egra Police Station Case No. 46/03, dated 20.5.2003 under Sections

147/148/149/323/325 of the Indian Penal Code now pending before the Learned Judicial Magistrate, 1st Court, Contai, Purba Medinipore against them.

2. It appears from the materials on record that the aforesaid case was the outcome of an First Information Report registered on May 20, 2003. In connection with the said case the charge-sheet has been submitted on August 5, 2003, and charge was framed on February 28, 2006.

3. Heard the Learned Counsel appearing on behalf of the parties. Perused the materials on record.

4. This is a case where the prosecution proposed to rely only on 11 witnesses and already 5 witnesses have been examined. It further appears at the stage when already 5 witnesses were examined, the petitioner moved an application being C.R.R. No. 4096 of 2008 with a prayer for a direction for expeditious conclusion of the trial and this Court by its order passed on March 27, 2009 directed the Trial Court to conclude the trial as expeditiously as possible preferably within six months from the date of communication of the said order. The said order was communicated to the Learned Court below on September 5, 2009 and six months from that date is to be expired on March 4, 2010. It appears that the date for trial was fixed on September 5 and October 21, 2009, but on both the days the trial could not have been held due to the non-appearance of the witnesses. It appears that on last occasion, that is, on 21st October, 2009 the Learned Magistrate fixed the next date for further evidence on June 3, 2010. When this Court directed the Trial Court to take all steps to conclude the trial as expeditiously as possible preferably within six months from the date of communication of the order, the Learned Magistrate should not have on October 21, 2009, fixed June 3, 2010 as the next date for recording of evidence in complete disregard to the order passed by this Court.

5. It is the fundamental right of the accused guaranteed under Article 21 of the Constitution to have a speedy trial. This is a case where the trial has been stalled due to the failure of the prosecution to produce its witnesses and due to the erroneous approach of the Trial Court, which has adjourned the trial on October 21, 2009 for about seven months till June 3, 2003.

6. In such view of the matter, I direct the Learned Magistrate must conclude the trial within four months from the next date fixed for recording of evidence. It is further directed the trial shall be continued from day to day until its conclusion and no adjournment shall be granted unless the Court finds such adjournment is necessary for ends of justice. If the Court finds the prosecution is repeatedly fails to produce the rest of the witnesses then in that case the Court must close the evidence and proceed to the next stage of the trial in accordance with law. It is directed this order be communicated to the Trial Court through the Learned District Judge, Purba Medinipore at Tamruk, and the Trial Court must be apprised about the implication of this order by the Learned Sessions Judge, so that there may not be any disobedience of this order in future.

7. This criminal revision, thus, stands disposed of.

8. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)