

Court No. - 90

Case :- APPLICATION U/S 482 No. - 14097 of 2023

Applicant :- Vinay Kushwaha

Opposite Party :- State Of U.P. And 6 Others

Counsel for Applicant :- Sanjai Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak,J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.

2. The present applicant has invoked the inherent power of this Court under Section 482 CrPC beseeching the expeditious disposal of Sessions Trial No. 40 of 2006 (State Vs. Narayan and others) arising out of Case Crime No. 122 of 2004, under Sections 147, 148, 323, 504, 506, 308, 325 IPC, Police Station Kasya, District Kushinagar pending in the court of Additional District and Sessions Judge/FTC (court concerned).

3. It is submitted by the learned counsel for the applicant that the occurrence of offence took place on 7.3.2004. FIR was lodged on 9.3.2004. After considering the charge sheet dated 23.4.2004, learned court has issued summons on 23.7.2004. Thereafter, charge were framed on 3.6.2009. Since then, the trial is protracted on one pretext or the other. While entertaining the instant matter, this Court has passed an order dated 21.4.2023 calling for the report from the court concerned. In pursuance of the order dated 21.4.2023, learned trial court has submitted its report dated 25.4.2023. Having considered the report dated 25.4.2023, this Court has passed the following order dated 17.5.2023:

"Perused the report dated 25.04.2023, the material part whereof reads:

महोदय उक्त नियत तिथि को अभियुक्तगण उपस्थित रहे एवं साक्षी के अनुपस्थित रहने के कारण साक्ष्य अंकित नहीं हो सका व साक्षी **PW-2** को सम्मन जारी किये गये व अग्रिम तिथि **11.04.2023** नियत की गयी।

महोदय दिनांक **11.04.2023** को मैं उपार्जित अवकाश पर थी, जिसमें अग्रिम तिथि **25.04.2023** नियत की गयी। आज दिनांक **25.04.2023** थाना कसया के परौकार के द्वारा साक्षी को उपस्थित कराये जाने हेतु अवसर याचित किया गया, जिसे अपर जिला शासकीय अधिवक्ता द्वारा अग्रसारित किया गया है, अवसर दिया गया।

महोदय साक्षी विनय कुशवाहा **PW-1** का बयान पूर्ण हो चुका है एवं पत्रावली साक्षी **PW-2** के साक्ष्य हेतु नियत है। महोदय आज दिनांक **25.04.2023** को **PW-2** को सम्मन जारी किये गये एवं पुलिस अधीक्षक कुशीनगर को साक्षी को जारी सम्मन के तामिला हेतु पत्र प्रेषित किया गया

महोदय सत्र परीक्षण के साक्षीगण को तलब करने हेतु संभव प्रयास किया जा रहा है एवं नजदीक की तिथि नियत की जा रही है, जिससे उक्त सत्र परीक्षण का निस्तारण शीघ्र किया जा सके।”

The Superintendent of Police, Kushinagar at Padrauna is directed to ensure that the prosecution witnesses are produced before the learned Additional Sessions Judge, Fast Track Court, Court No. 1, Kushinagar at Padrauna on the dates fixed without fail. It is directed that once the witness appears, he/she will not be discharged till his/her evidence is over. If on a particular date the testimony of the witness is not over, the trial will stand over until the next date.

Learned Counsel appearing in the case shall appear in the Court on each date fixed and shall not abstain from discharging their professional duties on account of any resolution by the Bar to abstain from work. If the learned Counsel do not discharge their duties in this case adhering to a resolution of the Bar to abstain from professional duties, the learned Counsel concerned shall be personally answerable to this Court. The Presiding Officer will bear in mind that she will not avail leave merely because it is due in her account, unless imperative.

Lay this matter as fresh on 26.05.2023.

Let a copy of this order be communicated to the Additional Sessions Judge, Fast Track Court, Court No. 1, Kushinagar at Padrauna through the learned Sessions Judge, Kushinagar and to the Superintendent of Police, Kushinagar at Padrauna by the Registrar (Compliance) within next 48 hours."

4. In pursuance of the order dated 17.5.2023, the concerned court has submitted its fresh report. On the next date i.e. 2.6.2023, this Court has again called for the report from the court concerned. In pursuance thereof, fresh report dated 6.9.2023 has been submitted which reveals that statements of PW-1, PW-2, PW-3, PW-4, PW-5 are completed, however, date has been fixed for the statement of PW-6.

5. Learned counsel for the applicant submits that, till date, PW-6 has not appeared and the matter is proceeding at snail's speed.

6. Having considered that it is an old matter of 2004, it would be befitting to issue a direction to the court below concerned for expeditious disposal of the aforesaid case which is protracted on one pretext or the other.

7. Learned AGA has no objection in case a direction is issued for early disposal of the aforesaid case.

8. In this conspectus, as above, no useful purpose would be served to keep this matter pending, therefore, this Court deems it appropriate to finally dispose of the present application, without making any observation on the merits of the case as mentioned in the present application, with a direction to Additional District and Sessions Judge/FTC (court concerned) before whom the aforementioned case is pending disposal, to decide the same expeditiously, preferably, within a period of ten months from the date of receipt of a certified copy of this order.

9. It is expected that the matter should be decided by a reasoned and speaking order, in accordance with law, after affording opportunity of hearing to the parties concerned without granting unnecessary adjournments to either of the parties.

10. With the aforesaid direction, present writ petition is disposed of.

Order Date :- 16.10.2023

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