



Serial No. 02
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

W.P.(Crl.) No. 5 of 2025

Date of Decision: 06.08.2025

Shri. William Richmond Marbaniang,
S/o (L) T.S. Richmond,
R/o Windcrest, Nongrimbah Road, House No.
39, Shillong, East Khasi Hills District,
Meghalaya.

..... **Petitioner**

- Vs -

Central Bureau of Investigation,
(North East) Zone, Represented by its Joint
Director, Government of India. 1st Floor,
Opp. Balaji Temple, N.H. – 37, P.O.
Gorchuk, Guwahati – 781035.

..... **Respondent**

Coram:

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s)	:	Mr. N. Khera, Adv. Mr. R. Kharkrang, Adv.
For the Respondent(s)	:	Dr. N. Mozika, DSGI with Ms. R. Fancon, Adv.

i)	Whether approved for reporting in Law journals etc.:	Yes/No
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ii)	Whether approved for publication in press:	Yes/No
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JUDGMENT AND ORDER (ORAL)

1. Heard Mr. N. Khera, learned counsel for the petitioner.
2. Also heard Dr. N. Mozika, learned DSGI assisted by Ms. R. Fancon, learned counsel for the respondent/CBI.
3. A short question of laws and facts is required to be decided in this case. It is a credit to the expertise of the learned counsels, who have made the endeavour to advance their submission at this stage of the proceedings, and for the matter to be concluded at the first hearing itself.
4. It is the case of the petitioner that he is involved as an accused in Sessions Case No. 76 (T) 2013 pending trial before the Court of the learned Additional District and Sessions Judge, Shillong.
5. The learned counsel for the petitioner has submitted that, apparently, the trial has taken about 12(twelve) years or so, and this has troubled the petitioner being of advanced age nearing about 75 years old or so, and being diligent in his appearance before the court all along, the manner in which the trial has proceeded, has caused concern to the petitioner as to when the trial will be finally over, given the fact that there are altogether 102(one hundred two) witnesses out of which 58(fifty eight) of them have been examined and discharged so far.



6. It is also the submission of the learned counsel that, if the natural course of trial is expected to be conducted, it would take another 75 weeks to complete, if the case is taken up on a weekly basis. It is on this sole ground that the petitioner has now approach this Court with a prayer that the case against the petitioner be quashed, as continuance of the same, would result in violation of the petitioner's fundamental rights.

7. On a query made by this Court, the learned counsel for the petitioner has referred to the authorities cited in the case of:

- i) Abdul Rehman Antulay & Ors v. R.S. Nayak & Anr reported in (1992) 1 SCC 225;
- ii) P. Ramachandra Rao v. State of Karnataka reported in (2002) 4 SCC 578; and
- iii) Pankaj Kumar v. State of Maharashtra & Ors reported in (2008) 16 SCC 117.

8. In the case of Abdul Rehman Antulay (supra) at para 18 of the same, the Apex Court has emphasized on the importance of application of the provision of Article 21 of the Constitution of India, vis-à-vis, the deprivation of life and liberty of a person undergoing trial in a criminal case, to say that such person has a right to be tried speedily which means that speedy trial is a right available to a person undergoing trial in a criminal case.



The principle formulated by the Apex Court in this case have been crystalized and laid down at para 86 which is reproduced herein below:

“86. In view of the above discussion, the following propositions emerge, meant to serve as guidelines. We must forewarn that these propositions are not exhaustive. It is difficult to foresee all situations. Nor is it possible to lay down any hard and fast rules. These propositions are:

(1) Fair, just and reasonable procedure implicit in Article 21 of the Constitution creates a right in the accused to be tried speedily. Right to speedy trial is the right of the accused. The fact that a speedy trial is also in public interest or that it serves the societal interest also, does not make it any the less the right of the accused. It is in the interest of all concerned that the guilt or innocence of the accused is determined as quickly as possible in the circumstances.

(2) Right to speedy trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial. That is how, this Court has understood this right and there is no reason to take a restricted view.

(3) The concerns underlying the right to speedy trial from the point of view of the accused are:

- (a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;
- (b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and
- (c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.



(4) At the same time, one cannot ignore the fact that it is usually the accused who is interested in delaying the proceedings. As is often pointed out, "delay is a known defence tactic". Since the burden of proving the guilt of the accused lies upon the prosecution, delay ordinarily prejudices the prosecution. Non-availability of witnesses, disappearance of evidence by lapse of time really work against the interest of the prosecution. Of course, there may be cases where the prosecution, for whatever reason, also delays the proceedings. Therefore, in every case, where the right to speedy trial is alleged to have been infringed, the first question to be put and answered is-who is responsible for the delay? Proceedings taken by either party in good faith, to vindicate their rights and interest, as perceived by them, cannot be treated as delaying tactics nor can the time taken in pursuing such proceedings be counted towards delay. It goes without saying that frivolous proceedings or proceedings taken merely for delaying the day of reckoning cannot be treated as proceedings taken in good faith. The mere fact that an application/petition is admitted and an order of stay granted by a superior court is by itself no proof that the proceeding is not a frivolous. Very often these stays are obtained on exparte representation.

(5) While determining whether undue delay has occurred (resulting in violation of Right to Speedy Trial) one must have regard to all the attendant circumstances, including nature of offence, number of accused and witnesses, the workload of the court concerned, prevailing local conditions and so on-what is called, the systemic delays. It is true that it is the obligation of the State to ensure a speedy trial and State includes judiciary as well, but a realistic and practical approach should be adopted in such matters instead of a pedantic one.

(6) Each and every delay does not necessarily prejudice the accused. Some delays may indeed work to his advantage. As has been observed by Powell, J. in *Barker* "it cannot be said how long a delay is too long in a system where justice is supposed to be swift but deliberate". The same ideal has been stated by White, J. in *U.S. v. Ewell*, 15



L Ed 2d 627, in the following words:

“... the sixth amendment right to a speedy trial is necessarily relative, is consistent with delays, and has orderly expedition, rather than more speed, as its essential ingredients; and whether delay in completing a prosecution amounts to an unconstitutional deprivation of rights depends upon all the circumstances.

However, inordinately long delay may be taken as presumptive proof of prejudice. In this context, the fact of incarceration of accused will also be a relevant fact. The prosecution should not be allowed to become a persecution. But when does the prosecution become prosecution, again depends upon the facts of a given case.

(7) We cannot recognize or give effect to, what is called the 'demand' rule. An accused cannot try himself; he is tried by the court at the behest of the prosecution. Hence, an accused's plea of denial of speedy trial cannot be defeated by saying that the accused did at no time demand a speedy trial. If in a given case, he did make such a demand and yet he was not tried speedily, it would be a plus point in his favour, but the mere non-asking for a speedy trial cannot be put against the accused. Even in USA, the relevance of demand rule has been substantially watered down in Barker and other succeeding cases.

(8) Ultimately, the court has to balance and weigh the several relevant factors-'balancing test' or 'balancing process'- and determine in each case whether the right to speedy trial has been denied in a given case.

(9) Ordinarily speaking, where the court comes to the conclusion that right to speedy trial of an accused has been infringed the charges or the conviction, as the case may be, shall be quashed. But this is not the only course open. The nature of the offence and other circumstances in a given case may be such that quashing of proceedings may not be in the interest of justice. In such a case, it is open to the court to make such other appropriate order-including an order to conclude the trial within a fixed time where the trial is not concluded or reducing the sentence where the trial has



concluded-as may be deemed just and equitable in the circumstances of the case.

(10) 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 as repeatedly refused to fix any such outer time-limit inspite of the Sixth Amendment. Nor do we think that not fixing any such outer limit in effectuates the guarantee of right to speedy trial.

(11) An objection based on denial of right to speedy trial and for relief on that account, should first be addressed to the High Court. Even if the High Court entertains such a plea, ordinarily it should not stay the proceedings, except in a case of grave and exceptional nature. Such proceedings in High Court must, however, be disposed of on a priority basis”.

9. It is also the submission of the learned counsel that the Apex Court in the case of P. Ramachandra Rao (supra), has reiterated the principle laid down in the case of Abdul Rehman Antulay (supra) as far as the issue of rights and liberty of a person undergoing trial in a criminal case is concerned, particularly with reference to a speedy trial in that respect. Para 29 of the P. Ramachandra Rao case is a reiteration of the Court to the principle laid down in the case of Abdul Rehman Antulay.

10. However, the learned counsel has also referred to the case of



Pankaj Kumar (supra), wherein the Apex Court taking note of the proposition of law laid down in the case of Abdul Rehman Antulay and the case of P. Ramachandra Rao, has however emphasized the fact that speedy trial is a must and has to be resorted to, the delay as far as speedy trial is concerned has to be pinpoint and attributed to certain factors, for e.g. the conduct of the parties, etc. Though the Court at para 18 of the Pankaj Kumar case has opined that *“it is open to the court to make appropriate orders, including fixing the period for completion of trial; (viii) it is neither advisable nor feasible to prescribe any outer time-limit for conclusion of all criminal proceedings...”*

11. The learned counsel has however fairly submitted that at this stage, quashing of the proceedings against the petitioner would not be insisted, nevertheless, it is prayed that this Court may be pleased to issue necessary directions for the Trial Court to expedite the proceedings to ensure that the petitioner is not faced with unnecessary delay as far as the trial is concerned.

12. The learned DSGI, in response on behalf of the respondent/CBI, has also stressed on the fact that apart from the severity of the offence which the petitioner is undergoing trial, though not as the main accused, since the trial involved offences under Sections 302/201/203 IPC, the sections of law implicated against the accused refers only to Section 201 and 203 IPC, his



case may not be decided in isolation.

13. Be that as it may, the learned DSGI has submitted that it would not be proper for quashing of the proceedings against the petitioner, given the fact that there is another co-accused person involved, who is facing trial, particularly for an offence under Section 302 IPC.

14. However, the learned DSGI has also fairly conceded that the prayer of the learned counsel for the petitioner for this Court to pass necessary directions as regard the manner in which the trial is to proceed, is found acceptable.

15. Under such circumstances, this Court would not go further into any unnecessary discussion on the merits of this case, however, taking into account the age of the petitioner and the number of years the trial has proceeded, would dispose of the same with the following directions:

- i) That the learned Trial Court is requested to take up the proceedings expeditiously, taking recourse to the provision of Section 309 Cr.P.C, particularly to ensure that, if possible, the case is taken up on a day-to-day basis; and
- ii) That the prosecution be directed to revisit the list of witnesses cited, and to cut down the list by striking off irrelevant or unnecessary witnesses, if any;



16. With the above noted observations, this petition is accordingly disposed of. No costs.

Judge