

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.892 of 2013

Arising Out of PS.Case No. -01 Year- 1993 Thana -Bela District- SITAMARHI

1. Bir Bahadur Rai S/O Late Dasai Rai Resident of Village+ P.O- Malahi, P.S- Bela, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State Of Bihar through Secretary Law Department, Bihar, Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur, Adv.
Mr. Devendra Kumar, Adv.

For the Respondent/s : Mr. Purnendu Singh, G.P.27
Mr. Rakesh Kumar Sharma, A.C. to G.P.27
Mrs. Sunita kumari, A.C. to G.P.27

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 03-02-2015

Bela P.S.Case No.1 of 1993 dated 2nd January, 1993 was registered for the offences punishable under sections 302, 201, 325, 379, 323 and 120-B of the Indian Penal Code and section 27 of the Arms Act on the basis of the written report submitted by the petitioner to the Officer-in-Charge of the Police Station. On conclusion of investigation, the police submitted charge sheet in the case. In due course of time, the case was committed to the court of Sessions for trial.

From the report of the learned trial Judge dated 16th May, 2014 it would appear that two Sessions Trials vide S.T. No. 223 of 1993 and S.T. No.154 of 1999 arising out of Bela P.S.Case No. 1 of 1993 are running for arguments since April, 2010. In the said report the



learned trial Judge has reported that due to dilatory tactics of the accused persons the trial of the case is being delayed. From the subsequent report of the learned trial Judge dated 17th December, 2014, it would appear that charges were framed against the accused persons on 18th September, 2001. The prosecution examined altogether 13 witnesses in course of trial. The prosecution evidence was closed on 25th August, 2008 and the statements of the accused persons were recorded under section 313 of the Code of Criminal Procedure on 10th December, 2008. Thereafter the defence was directed to adduce its evidence. The defence evidence was closed on 5th April, 2010 and thereafter both sides were directed to make final arguments in the matter. On 24th August, 2010 argument on behalf of the prosecution was closed and the defence was directed to proceed with the argument. Since then the defence has taken several adjournments on one ground or another.

By filing the present application under Articles 226 and 227 of the Constitution of India, the petitioner has prayed for issuance of a direction to the respondents to conclude aforesaid Sessions Trial Nos.223 of 1993 and 154 of 1999 arising out of Bela P.S.Case No.1 of 1993.

In the present case, by order dated 18th November, 2014 a Bench of this Court had directed the court below to conclude the trial by expediting the hearing on day-to-day basis and report about the

status of the case within four weeks. The learned Sessions Judge, Sitamarhi was directed to monitor the case for disposal. It would appear from the report of the learned trial court dated 17th December, 2014 that till date there is no progress in the hearing matter.

Learned counsel for the petitioner has also contended that due to dilatory tactics adopted by the defence, the matter is being delayed.

It is a serious matter. There is no doubt that an accused person is entitled to have a fair and impartial trial but this does not mean that the accused persons may drag the trial of a case for an indefinite period. Once evidence is closed and the trial court begins hearing the argument, there should be no adjournment till the argument is closed. Every Judge has inherent jurisdiction to eliminate any unfair approach adopted by a party to the trial. The authority to control the courts process and oversee the conduct of respective parties is necessarily implied in every court. Every Judge has the power and authority to preserve the order in a court over which he presides. Concept of fair trial involves fairness to the prosecution and to the accused. Neither the prosecution nor the accused should be allowed by the court to abuse the process of the court.

It appears in the present case that the trial Judge has lost control over the matter. It seems that instead of the Presiding Judge the accused persons are controlling the proceedings of the case. It is a very

sorry state of affair on the part of the court.

Regard being had to the facts and circumstances of the case, I direct the learned 2nd Additional Sessions Judge, Sitamarhi to fix a date of final hearing on behalf of the defence in the aforesaid Sessions Trials within two weeks from the date of receipt of a copy of the order and in case the defence fails to advance argument, the court would appoint some advocate practicing in criminal side as Amicus Curiae and proceed with the hearing of the case on day to day basis. The court shall not adjourn the case on any ground once the argument on behalf of the defence begins till the conclusion of the argument. In no circumstance, the hearing of the case should drag beyond two months from the date of receipt/communication of a copy of the order.

With these observations, the application is disposed of.

The learned 2nd Additional Sessions Judge, Sitamarhi is further directed to report this Court regarding disposal of the aforesaid two Sessions Trials arising out of Bela P.S.Case No.1 of 1993 within three months from the date of receipt/production of a copy of this order.

On receipt of such report, the Registry shall place the matter under the heading “For Orders” for perusal.

(Ashwani Kumar Singh, J)

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