

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 338 of 2016

1. Surjeet Jana @ Raju S/o Shri Shashanko Jana, aged 21 years, R/o Hadiya, Distt. East Madinapur, PS Madinapur (West Bengal).
2. Shobhik Bag @ Poltu, aged 22 years S/o Tapan Bag (not mentioned in order impugned) R/o Baranandpur (wrongly mentioned as son of), North Bada, Thana Khanapur, Distt. Hugli (West Bengal)

Both R/o in front of Mahamaya Mandir, Purani Basti, Distt. Raipur (CG).

---- Applicants

Versus

State of Chhattisgarh Through District Magistrate, Raipur (CG).

---- Respondent

For applicants	Shri Ishwar Jaiswal, Advocate.
For Respondent/State	Shri Rajendra Tripathi, Panel Lawyer.

Hon'ble Shri Justice P.Sam Koshy

Order On Board

18/07/2016

1. This petition under Section 482 Cr.PC has been filed challenging the order dated 18.02.2016 passed by the Special Judge (CBI) in Criminal Revision No.33/2016 whereby the revisional court has rejected the revision preferred against the order dated 22.12.2015 passed by the Judicial Magistrate First Class, Raipur in Criminal Case No.14557/2015 rejecting an application under Section 437 (6) Cr.P.C.
2. The two courts below have rejected the application of the applicants filed under Section 437(6) Cr.P.C.
3. Learned counsel appearing for the applicants submits that in the instant case there are two accused persons and the applicants had

been charged for the offence under Sections 408/34 IPC. It is further submitted that FIR against the applicants were filed on 22.07.2015 and the charge sheet was filed on 24.09.2015. Subsequently, charges were framed on 08.10.2015 and the matter was fixed for the first time for recording evidence of prosecution witness on 20.10.2015. In all the prosecution has cited 8 witnesses out of which not a single witness has been produced and examined by the prosecution till date for almost 10 months.

4. The trial is getting delayed for no fault of the applicants for almost 10 months and the applicants are suffering irreparable loss. The applicants are in jail since 26.08.2015 and 28.08.2015 respectively and trial is being unnecessarily delayed on behalf of the prosecution, therefore, the present applicants may be granted advantage of provisions under Section 437(6) Cr.P.C.
5. The State counsel submits that taking into consideration the allegation levelled against the present applicants, they do not deserve for being released under Section 437(6) CrPC at this stage. Apart from this contention, counsel for the State has not given any explanation so far as the delay of trial is concerned, however, he submits that a suitable direction may be issued for expeditious trial.
6. Taking into consideration the facts and circumstances of the case and also the charge levelled against the applicants, this court is of the opinion that the facts that prosecution has cited only 8 witnesses and out of which not a single witnesses has been examined by the prosecution itself is sufficient indication that the prosecution has taken a lethargic approach in conducting the trial, inasmuch as, the

prosecution has not shown any interest for the early disposal of trial or for that matter in conducting the trial as is otherwise required and therefore, ends of justice would be served if the court below is directed for expeditious trial.

7. Accordingly, the court below is directed to ensure that trial itself is concluded at the earliest without unnecessary delay by invoking all the provisions of Cr.P.C. within its power and jurisdiction for calling upon the witnesses and to decide the matter at the earliest.
8. With the aforesaid direction, the petition stands disposed of.

Sd/-
(P.Sam Koshy)
JUDGE

inder