

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.40677 of 2011

Arising Out of PS.Case No. -74 Year- 1987 Thana -null District- PATNA

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Prem Kumar, S/O Late Gurdeo Singh, R/O Village- Haveli, P.S. Biharsharif,
District- Nalanda.

.... Petitioner

Versus

1. The State of Bihar,
2. The D.G. Vigilance, Government of Bihar, Patna.

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Mohan Kumar Singh, Adv.
For O.P. No.2	:	Mr. Rama Kant Sharma, Sr. Adv.
For the Opposite Party	:	Mr. Ambar Ali, APP

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL JUDGMENT

Date: 02-05-2017

Heard learned counsel for the petitioner, learned counsel appearing on behalf of O.P. No.2 and learned A.P.P. appearing on behalf of the State.

2. The petitioner has invoked inherent jurisdiction under Section 482 of Cr.P.C. to quash the entire criminal proceeding of Alamganj P.S. Case No.74 of 1987, corresponding to Special Case No. 19 of 1987 pending in the Court of Special Judge, Vigilance, Patna.

3. The facts leading to this application is that informant Md. Nausad Khan, son of Hakim Mohamad Suraj Khan, Resident of Mojahidpur, P.S. Mojahidpur, District-Bhagalpur being the truck driver of BRJ-7967 proceeded from Bhagalpur to Patna loading the household articles of Trilochan Singh on 30.03.1987.



When he reached at Dhanuki More, south to the Mahatma Gandhi Setu at about 3.15 P.M. then the traffic constable gave signal to stop the truck, then he stopped the truck. The traffic police asked about entry of truck for passing of the truck then he replied that entry has not been made. Thereafter, he took out the copy and cash of Rs.30/- then traffic police took cash of Rs. 30/- and started making entry in the copy in the meanwhile D.I.G. Patna took the cash Rs. 30/- to the hand of the traffic constable, who disclosed his name Prem Kumar, Constable No. 121, Traffic Police Patna.

4. Learned counsel appearing on behalf of petitioner submits that it would appear from the F.I.R. that the allegation has been made against the petitioner that he being the traffic constable posted at Mahatma Gandhi Setu, Patna took the bribe of Rs.30/- to the informant Md. Nausad Khan for permitting the truck for moving on 30.03.1987. Thereafter, the petitioner was remanded to judicial custody and he was released on bail on 02.04.1987. Further submission is that occurrence is of 30.03.1987, but after passing over 30 years, the Chargesheet has not been submitted as yet as such the petitioner is suffering from mental agony due to non-submission of Chargesheet by the Investigating Agency and he has been deprived from right of speedy trial as available in under Article 21 of the Constitution of India. Learned counsel appearing on behalf of the petitioner in support of his submission placed reliance on the decision in case of **Vakil Prasad**



Singh Versus State of Bihar, 2009, PLJR SC-277.

5. From perusal of the record, it appears that on the basis of the fardbeyan of informant Md. Nausad Khan, Alamganj P.S. Case No.74 of 1987 was instituted on 30.03.1987 for the offence under Section 5 of Prevention of Corruption Act and Section 161 of Indian Penal Code, which was numbered as Special Case No. 19 of 1987 in the Court of Special Judge, Vigilance, Patna. On 21.04.2014, report was called for from the Court of Special Judge, Vigilance Patna regarding stage of Alamganj P.S. Case No.74 of 1987 (Special Case No. 19 of 1987). In compliance of the aforesaid order, the Special Judge, Vigilance, Patna informed vide letter No. 84, dated 27.02.2017 that in this case Chargesheet has not been submitted as yet and the case is still pending awaiting the Final Form.

6. Learned special P.P. appearing on behalf of D.G. Vigilance, Government of Bihar, Patna is unable to explain the delay in not submitting the Final Form uptill now in Alamganj P.S. Case No. 74 of 1987.

7. The Hon'ble Apex Court in case of Vakil Prasad Singh (Supra) has held in paragraph 15 as under:

“15. It is, therefore, well settled that the right to speedy trial in all criminal persecutions is an inalienable right under Article 21 of the Constitution. This right is applicable not only to the actual proceedings in court but also includes within its



sweep the preceding police investigations as well. The right to speedy trial extends equally to all criminal prosecutions and is not confined to any particular category of cases. In every case, where the right to speedy trial is alleged to have been infringed, the court has to perform the balancing act upon taking into consideration all the attendant circumstances, enumerated above, and determine in each case whether the right to speedy trial has been denied in a given case. Where the court comes to the conclusion that the right to speedy trial of an accused has been infringed, the charges or the conviction, as the case may be, may be quashed unless the court feels that having regard to the nature of offence and other relevant circumstances, quashing of proceedings may not be in the interest of justice. In such a situation, it is open to the court to make an appropriate order as it may deem just and equitable including fixation of time frame for conclusion of trial.”

8. From the facts as discussed above, it is apparent that Alamganj P.S. Case No.74 of 1987 was instituted against the petitioner on 30.03.1987, but after passing over 30 years, Chargesheet has not been submitted as yet. The prosecution has failed to show any exceptional circumstance, which could explain about non-submitting the Chargesheet uptill now. As such, non-submission of Chargesheet after passing over 30 years of the institution of Alamganj P.S. Case No. 74 of 1987 against the petitioner is clear violation of the constitutional guarantee of speedy investigation trial available under Article 21 of the Constitution of



India. As such continuance of the investigation and further proceeding of Alamganj P.S. Case No.74 of 1987 (Special Case No. 19 of 1987) pending against the petitioner in the Court of Special Judge, Vigilance Patna is unwarranted and deserves to be quashed.

9. In the result, this application is allowed and F.I.R. of Alamganj P.S. Case No.74 of 1987 (Special Case No. 19 of 1987) and proceeding pending in the Court of Special Judge, Vigilance Patna against the petitioner is hereby quashed.

(Rajendra Kumar Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	10.05.2017
Transmission Date	10.05.2017

