

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1300 of 2016

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Bhuili Devi, Wife of Late Basudev Sahani, resident of Village- Chhit Bhagwatipur, P.S. Ahiyapur, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through Law Secretary, Government of Bihar, Patna.
2. The Registrar, Civil Court, Muzaffarpur, District- Muzaffarpur.
3. Officer-in-Charge, Ahiyapur, Police Station, District- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Ranjan

For the Respondent/s : Mr. Kumari Amrita (Gp3)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

3 04-01-2018 Heard learned counsel for the petitioner and learned counsel representing the State as well as respondent no.2 the Registrar, Civil Court, Muzaffarpur.

The statements made in the writ application and prayer made by the petitioner depict only a sad state of affairs prevailing in the matter of maintenance of records in the Civil Court at Muzaffarpur.

Petitioner in this case has prayed for early disposal of Session Trial No.63 of 1989 (State Vs. Jangali Sahani and others) arising out of Ahiyapur P.S. Case No.111/1986 lodged under Sections 302, 149 and 460 of the Indian Penal Code which is pending in the court of learned Additional Sessions Judge-VI,



Muzaffarpur. The grievance of the petitioner is that what has been known as a right to speedy trial embedded as fundamental right under Article 20 and 21 of the Constitution of India to an accused is being continuously negated in the present case. The original records of the case are missing since the year 1989 and because of that reason the trial has been pending causing mental harassment to the petitioner.

The petitioner has specifically stated in paragraph 4 of the writ application that she is making pairvi in this case since 1989, but due to non-availability of original records of the case the trial has not been concluded as yet and now she is not in a position to contest the case properly due to her poverty and old age. It has been further stated in paragraph 5 and 6 of the writ application that earlier in course of hearing of Cr.Misc.No.3461 of 1990 and Cr.Misc.NO.11434 of 1989 while two accused persons were summoned under Section 319 Cr.P.C. by the trial court the original records of Sessions Trial No.63 of 1989 was called for by the Hon'ble High Court and while disposing of those cases the Hon'ble Court vide order dated 12.12.1994 directed that a copy of the order be sent along with the records of the lower court to the learned court of 4th Additional Sessions Judge, Muzaffarpur for disposing of the trial. It is then stated that from the order dated



1.9.2009 passed in Session Trial No.63/1989 it would appear that the original records as well as order of the Hon'ble Court have been sent back to the court of 4th Additional Sessions Judge, Muzaffarpur vide memo no.3272 R-90 dated 13.1.1995. Thereafter the records are missing and trial has not proceeded due to non-availability of the records.

Earlier vide order dated 30.11.2017, the state-respondent was directed to file a counter affidavit. Learned counsel representing the Registrar, Civil Court, Muzaffarpur (respondent no.2) submits that no counter affidavit could be filed in this case because no instruction has been received. The learned Advocate further informs this Court that he had twice sent letters to the Registrar, Civil Court, Muzaffarpur, but no response has come till date.

I am afraid if this is the position of the Registrar, Civil Court, Muzaffarpur that he would not respond to the letters written by the learned counsel, it is bound to keep the disposal of cases in abeyance.

The matter requires thorough consideration because the trial is pending for about 29 years by now, the case itself is 31 years old. The concept of speedy trial would be rendered a hollow and shallow concept and this being an integral part of the



fundamental right if not taken care of by those who are responsible to protect the fundamental right of the litigant would erode the confidence of the litigant as regards sanctity of the concept of speedy trial.

Let the learned District and Sessions Judge, Muzaffarpur held a proper enquiry and find out the reasons for missing of the records for over 22 years. The enquiry must be completed within a period of two months from the date of receipt/production of a copy of this order. If the records are still not available, the court shall reconstruct the records in accordance with law and the trial court would be obliged to conclude the trial by taking up the matter on day to day basis within a period of four months from the date of construction of the records which must be done in any case within a period of three months from the date of receipt/production of a copy of this order.

The writ application is accordingly disposed of.

(Rajeev Ranjan Prasad, J)

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