

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No. 149 of 2020

Ruhi Agrawal, D/o. Shri Vijay Agrawal, aged about 34 years, R/o. Gali No. 3, Deepak Nagar, Durg, Tahsil and District Durg, Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh, Through : Police Station Supela, Bhilai, District Durg, Chhattisgarh. (Prosecution).
2. Nimish Agrawal, S/o. Shri Sunil Agrawal, aged about 36 years
3. Sunil Agrawal, S/o. Late Shri Laxminarayan Agrawal, aged about 65 years,
4. Smt. Rekha Agrawal, W/o. Sunil Agrawal, aged about 62 years,
No. 2 to 4 all are R/o. 1/45, Nehru Nagar Old Supela, P.S. Supela, District Durg, Chhattisgarh.
5. Neha Agrawal, W/o. Udit Agrawal, aged about 40 years, R/o. Flat No. 1503 Oberoy, Wood Gooregaon East Mumbai, Maharashtra (Accused Persons).

-----Respondents

For Petitioner	: Mr. T.K. Jha, Advocate
For State/respondent No.1.	: Mr. Devendra Pratap Singh, Dy.A.G.
For Respondents No.2 to 5	: Mr. Manoj Paranjpe, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

11/01/2021

1. This petition under Article 227 of the Constitution of India has been brought seeking direction of this Court to expedite the trial in

Sessions Trial No.108/2017, pending before the Court of Additional Sessions Judge (F.T.C.), Durg, District – Durg (C.G.).

2. It is submitted by the learned counsel appearing on behalf of the petitioner that sessions case is pending since year 2017. Some of the listed witnesses namely Vijay Agrawal, Khemamal, Prakash Parihar and Smt. Mala Ahuja are senior citizens. Smt. Mala Ahuja is suffering from kidney problem, therefore, it is in the interest of justice, these witnesses who are in advance age should be examined in the trial as early as possible. Trial in the sessions case is standstill. Therefore, the direction be issued to the Court concerned to take up the case and expedite the trial.
3. Counsel for the private respondents opposes the petition and the submission made in this respect. It is submitted that Article 227 of the Constitution of India can not be invoked for issuance of such direction. Relying on the judgment of this High Court in case of **Mohd. Arshad Khan Vs. Central Bureau of Investigation**, reported in **2018 Cr.L.J. 485**, it is submitted that in the matter of criminal cases, the extra ordinary power under Article 226 of the Constitution of India and Section 482 of Cr.P.C. can be exercised as per the law laid down in case of State of **Haryana & Ors. V. Bhajan Lal & Ors.**, reported in **1992 Suppl. SCC 335**, therefore, the petitioner could have moved a petition under Article 226 of the Constitution of India instead of the petition brought herein under Article 227 of the Constitution of India. Hence, it is submitted that no such direction can be issued as it is prayed for in this petition.
4. Learned State counsel makes formal objection.

5. In reply, it is submitted by the counsel for the petitioner that this Court has a supervisory jurisdiction in exercise of the same. Order can be passed prescribing forms for regulating the practice of the Subordinate Court. The Court of Sessions is also a Court subordinate to this High Court. Hence, there is no hindrance for passing such order. Reliance has been placed on the order of this Court in ***W.P.(227) No.128 of 2020 dated 05.02.2020***, in which this Court had directed for expeditious disposal of the case pending before the Subordinate Courts.
6. I have heard the learned counsel for the parties.
7. Considered on the submissions and perused the documents filed along with the petition. The judgment in ***Mohd. Arshad Khan (supra)*** mentions about invoking the jurisdiction of the High Court under Article 226 of the Constitution of India and inherent powers of the High Court under Section 482 of Cr.P.C. for the purpose of quashing the criminal cases and it was held that for the same Article 227 of the Constitution of India can not be invoked. Therefore, there is no such restriction that this Court can not issue direction for speedy disposal of any case pending before any Subordinate Court under Article 227 of the Constitution of India. Hence, this present petition is disposed off at motion stage.
8. In the sessions case concerned, the trial Court is examining the charges under Section 376, 377, 498-A, 323, 34 of the Indian Penal Code and Section 3 and 4 of Dowry Prohibition Act. At present the functioning of the Subordinate Court has resumed from 17.11.2020. The directions have been issued by the High Court in Order No. 114

(Mis.)/II-14-1/2000 dated 16.10.2020, in which there is a specific direction for the Subordinate Court in Clause-5 regarding the types of cases to be taken up during this restricted functioning of the Courts, which includes the trial of the cases concerning sexual assault against women and children. The present case is clearly covered in that direction, therefore, the learned trial Court is directed to take up the case on urgent basis and expedite the trial and conclude the same as early as possible preferably within a period of one year.

9. Accordingly, the petition is disposed off with the aforesaid observations.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram