

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.26 of 2022

Arising Out of PS. Case No.-1705 Year-1998 Thana- PATNA COMPLAINT CASE District- Patna

Kalyan Shankar S/O Late Ram Das Rai R/O Bihar Vidyapeeth, Sadakat Ashram, P.S. - Patliputra, District - Patna.

... .. Petitioner

Versus

1. The State Of Bihar Through The Secretary, Department Of Home Govt. Of Bihar, Patna
2. Karanjit Ranjan S/O Late Ram Narayan Rai R/O 246, Nehru Nagar, P.S. - Patliputra, District - Patna, Presently Residing At Flat No. 402, Madhukunj Apartment, Nehru Nagar, P.O.- Patliputra, P.S. - Patliputra, District - Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Pushkar Narain Shahi, Sr.Adv. Mr.Avinash Kumar Singh,Adv.
For the State	:	Mr.Sheo Shankar Prasad, SC-8 Mr.Anil Kumar, AC to SC-8.
For the O.P.	:	Mr.Shivendra Kumar Sinha,Adv. Mr.Ranjeet Patel,Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 26-09-2022 Learned counsel for the petitioner undertakes to remove the defects within two weeks from today.

Heard Mr. Pushkar Narain Shahi, learned senior counsel assisted by Mr. Saket Tiwary, learned Advocate for the petitioner, Mr Sheo Shankar Prasad, learned SC-8 and Mr. Shivendra Kumar Sinha, learned counsel appearing for respondent no. 2.

This writ application has been filed seeking quashing of the entire proceeding arising out of complaint case no.1705(c) of 1998 pending trial in the court of learned Additional Chief Judicial Magistrate IX, Patna.

Learned counsel for the petitioner submits that in this case the petitioner and the O.P. No. 2 are first cousins. The complaint case



was filed by O.P. No. 2 on 07.12.1998 alleging that he visited the Patna Civil Court along with one Rajkumar and Sudhir Singh to visit his advocate. The petitioner who is an Advocate by profession came to the complainant along with 3 other persons, held him by collar and abused him. It is alleged that in the said scuffle the spectacles of the complainant fell on the floor and when he bent down to pick his spectacles the petitioner snatched the same which was worth Rs 400/- and thereafter threatened him.

The learned court below took cognizance of the case on 27.04.1999 and thereafter charges were framed on 21.07.2007. The complainant was examined on 26.05.2008. No witness was produced for next 2 years. On 09.07.2010 the trial court warned that the evidence of the complainant would be closed if no witness is produced on 09.07.2010.

Since the complainant failed to bring any witness, the evidence was closed on 31.08.2010.

Learned senior Counsel submits that thereafter the case has remained pending for over one decade and at this stage he has got instruction to say that in fact the records of the case are missing.

It is submitted that the petitioner has suffered the ordeal of trial for last 22 years in a petty matter. He has relied upon the judgment of the Hon'ble Supreme Court in the case of **Hussainara Khatoun (I) v/s Home Secretary, State of Bihar** reported in 1980(1) SCC 81, **A. R. Antulya v/s R.S. Nayak** reported in 1992 (1) SCC 225 and **Sheela v/s Union of India** reported in 1986 (3) SCC 632 to submit



that the Right of Speedy Trial has been recognized as a fundamental right of the accused and in an appropriate case the Hon'ble Apex Court has quashed the proceeding where it has remained pending without there being any fault of the accused.

It is lastly submitted that in fact the petitioner as well as the respondent no. 2 had filed a case against each other being co-sharers. Over the period they have forgotten the dispute and have developed good sense. As a corollary to this, respondent no. 2 agreed in the Hon'ble Supreme Court in the case of father of the petitioner in Special Leave to Appeal (Crl) No. 415-416 of 2014 that if he tenders apology, the complainant shall not proceed with the case. It is submitted that after recording the said apology of the father of the petitioner, the Hon'ble Supreme Court quash the criminal case pending in the learned trial court.

It is submitted that in such circumstances no fruitful purpose would be served by allowing this case to continue.

Mr. Shivendra Kumar Sinha, learned counsel for respondent no. 2 does not dispute that vide Annexure '7' to the writ application the case pending against father of the petitioner was quashed after good sense prevailed between both the parties. Mr. Sinha, has at this stage, submitted that this Court can pass an appropriate order taking note of the materials available on the record.

In the given facts and circumstances of the case where the private complaint case was lodged in the year 1998 and 12 years after closer of evidence of the complainant who could only examine himself



in course of trial and no other witness has been produced on his behalf, taking note of the fact that in the meantime good sense prevailed between the parties and in one of the cases lodged against the father of the petitioner, the same was quashed on compromise when he had tendered apology, this Court is of the considered opinion that further continuation of the present criminal case against the petitioner is only an abuse of the process of Court. The judgments cited on behalf of the petitioner would unequivocally go on to show that in appropriate cases where the investigation has prolonged over decades for no fault of the petitioner, the Hon'ble Apex Court has held that it amounts to causing prejudice to the defence of the accused.

In the opinion of this Court, this case is liable to be quashed and is accordingly quashed.

This writ application is disposed of accordingly.

Certified copy of this order shall be made available only after removal of the defects.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

