

CRM-M-46017-2019

**214 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH**

CRM-M-46017-2019 (O&M)

Date of Decision: 17.11.2023

PARMINDER SINGH @ DIMPY**...Petitioner****V/S****STATE OF PUNJAB AND ANOTHER****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Chandan Singh Rana, Advocate
for the petitioner.

Mr. Madhur Sharma, AAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. The petitioner has approached this Court by filing the present petition under Section 482 of Cr.P.C. seeking quashing of FIR No. 78 dated 14.04.2008 (Annexure P-1) registered under Section 436, 120-B of Indian Penal Code (Sections 435/457/456/427 of IPC added later on) at Police Station Maqsudan District Jalandhar along with all subsequent proceedings arising out of the impugned FIR and further quashing of the order passed by learned Judicial Magistrate Ist Class, Jalandhar, dated 08.03.2019 (Annexure P-3) is also sought.

FACTUAL BACKGROUND

2. The aforementioned FIR was registered on the statement of Kashmir Singh, which is as under:

"I am truck driver by profession. I own two trucks, bearing no. HR 56-B- 5815 and HR 56C-5815. I drive one truck myself and for second truck I have kept one driver. I park my both the trucks above- mentioned daily at Gill cold storage, Kala Sanghian. Today I parked my both the trucks and went to my house. Then

at about 3;00A.M on dated 14.4.2008, surinder singh son of shri Amar singh resident of village Dhariwal told me by coming to my house that your both the trucks are burning. I came alongwith surinder singh and saw that my both the truck were burning and officials of fire brigade are extinguishing the fire. I have fully faith that my both the trucks have been burnt by Parminder singh Dimpy son of pritam Singh Resident of Village Dhariwal Quadian and in connivance with his friends. The motive behind all is that on 12.4.2008, a minor dispute arose between me and Parminder Singh Dimpy and owner of Gill farm Raghbir Singh and respectable of village got compromised the matter orally. I am present on the spot alongwith Surinder Singh. The officials of fire brigade have left the place after extinguish the fire. You have come to spot. Legal action be taken against Dimpy @ Parminder Singh and his friends."

CONTENTIONS

3. Learned counsel for the petitioner inter alia contends that the perusal of the FIR would indicate no specific allegation are made out against the petitioner. The police after completion of the investigation declared the petitioner as innocent as discernible from the report of the Superintendent of Police, City-2, Jalandhar dated 02.01.2009 (Annexure P-2). Thereafter, after completion of the investigation, untraced report was submitted before the learned Judicial Magistrate Ist Class Jalandhar. The petitioner has been suffering the agony of criminal proceedings for the last more than 15 years and the Investigating Agency has repeatedly concluded that the petitioner has no connection with the alleged offence and untraced report was submitted. The learned trial Court vide order

CRM-M-46017-2019

dated 08.03.2019 passed the following orders:

“Notice issued to complainant several times, but received back unserved and police authorities has failed to produce the complainant, which clearly reveals that the police authorities were never serious in investigating the offence. Further perusal of untrace report reveals that the same has been presented in hap hazard manner sans of any proper investigation. Hence, the present untrace report is sent back to the concerned police station for thorough further investigation. Untrace report be returned to the said police station with the copy of this order. Judicial papers be consigned to the record room.”

4. The learned counsel for the petitioner further refers to the reply filed by the State of Punjab by way of affidavit of Deputy Superintendent of Police, Sub Division Kartarpur, District Jalandhar dated 06.03.2022. The para No. 3 and 4 of the reply indicates that the petitioner was declared innocent in the year 2009. Thereafter, untraced report was presented in the present FIR before the learned Illaqa Magistrate. Further it has been recorded in para 04 of the reply that after inquiry, the petitioner has been found innocent and as such untraced report has been prepared in the present case and allegations levelled by respondent No. 2 are found false.

OBSERVATIONS AND ANALYSIS

5. Having heard the learned counsel for the parties and after perusing the record it transpires that undisputedly the FIR was lodged on 14.04.2008 (Annexure P-1) and the petitioner was declared innocent on 02.01.2019 (Annexure P-2). It is no longer *res integra* that the fundamental concept of the criminal jurisprudence is to ensure speedy trial. The Hon’ble Supreme Court has repeatedly reiterated that the right

CRM-M-46017-2019

to speedy trial is enshrined in Article 21 of the Constitution of India. The speedy trial would cover in its sweep investigation, trial, appeal etc. i.e. everything starting with the accusation and expiring with the final verdict of the last Court. No citizen can be deprived of his liberty under a procedure which is not reasonable, fair or just, such deprivation would be violative of Article 21 of the Constitution of India. The Seven Judges Bench of Hon'ble Supreme Court in ***Menka Gandhi Vs. Union of India and Another*** 1978(1) SCC 248 has articulated the protection enshrined under Article 21 of the Constitution of India and has held that Article 21 confers a fundamental right on every citizen and not to be deprived of his life or liberty except according to the procedure established by law and such procedure is not merely some semblance of procedure but such procedure must be reasonable, fair. The right to speedy trial undoubtedly flow from this concept of fairness. It was observed that any procedure which does not ensure a reasonably quick trial, it would fall foul of Article 21 and the right to speedy trial is an integral and essential part of fundamental right to life and liberty enshrined in Article 21 of the Constitution of India. Reference can also be made in this regard to the landmark judgments of the Hon'ble Supreme Court in ***P. Ramachandra Rao Vs. State of Karnataka*** 2002(4) SCC 578, ***Hussainara Khatoon Vs. Home Secretary, State of Bihar*** 1980 (1) SCC 81, ***Abdul Rehman Antulay Vs. R.S. Nayak*** 1992 (2) RCR (Criminal) 419, ***Common Cause A Registered Society Vs. Union of India*** 1996 (6) SCC 775. Relevant paragraph from ***P. Ramachandra Rao (supra)*** is reproduced in this regard:-

“No person shall be deprived of his life or his personal liberty except according to procedure established by law declares Article 21 of the Constitution. Life and liberty, the words employed in shaping Article 21, by the Founding Fathers of the Constitution, are not to be read narrowly in the sense drearily dictated by dictionaries; they are organic terms to be construed meaningfully. Embarking upon the interpretation thereof, feeling the heart-throb of the Preamble, deriving strength from the Directive Principles of State Policy and alive to their constitutional obligation, the Courts have allowed Article 21 to stretch its arms as wide as it legitimately can. The mental agony, expense and strain which a person proceeded against in criminal law has to undergo and which, coupled with delay, may result in impairing the capability or ability of the accused to defend himself have persuaded the constitutional courts of the country in holding the right to speedy trial a manifestation of fair, just and reasonable procedure enshrined in Article 21. Speedy trial, again, would encompass within its sweep all its stages including investigation, inquiry, trial, appeal, revision and re-trial in short everything commencing with an accusation and expiring with the final verdict the two being respectively the terminus a quo and terminus ad quem- of the journey which an accused must necessarily undertake once faced with an implication.”

6. Hon’ble Supreme Court ***Abdul Rehman Antuley (supra)*** has observed that the determination of the guilt or innocence of the accused must be arrived at with reasonable dispatch. Relevant paragraph from the aforesaid judgment is reproduced hereinbelow:-

“Now, can it be said that a law which does

not provide for a reasonably prompt investigation, trial and conclusion of a criminal case is fair, just and reasonable? It is both in the interest of the accused as well as the society that a criminal case is concluded soon. If the accused is guilty, he ought to be declare so. Societal interest lies in punishing the guilty and exoneration of the innocent but this determination (of guilt or innocence) must be arrived at with reasonable dispatch-reasonable in all the circumstances of the case. Since it is the accused who is charged with the offence and is also the person whose life and/or liberty is at peril, it is but fair to say that he has a right to be tried speedily. Correspondingly, it is the obligation of the State to respect and ensure this right. It needs no emphasis to say, the very fact of being accused of a crime is cause for concern. It affects the reputation and the standing of the person among his colleagues and in the society. It is a cause for worry and expense

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82. The provisions of the Code of Criminal Procedure re consistent with and indeed illustrate this principle. They provide for an early investigation and for a speedy and fair trial. The learned Attorney General is right in saying that if only the provisions of the Code are followed in their letter and spirit, there would be little room for any grievance. The fact however, remains- unpleasant as it is-that in many cases, these provisions are honoured more in breach. Be that as it may, it is sufficient to say that the Constitutional guarantee of speedy trial emanating from Article 21 is properly reflected in the provisions of the Code.”

7. The Hon’ble Supreme Court has considered the impact of inordinate delay in conclusion of the investigation on the fundamental rights of the accused in ***State of Andhra Pradesh Vs. P.V. Pavithran*** AIR

CRM-M-46017-2019

1990 Supreme Court 1266 and it was concluded the investigation into a criminal offence must be concluded expeditiously. Relevant paragraph is reproduced hereinbelow:-

“There is no denying the fact that a lethargic and lackadaisical manner of investigation over a prolonged period makes an accused in a criminal proceeding to live every moment under extreme emotional and mental stress and strain and to remain always under a fear psychosis. Therefore, it is imperative that if investigation of a criminal proceeding staggers on with tardy pace due to the indolence or inefficiency of the investigating agency causing unreasonable and substantial delay resulting in grave prejudice or disadvantage to the accused, the Court as the protector of the right and personal liberty of the citizen will step in and resort to the drastic remedy of quashing further proceedings in such investigation.”

8. The facts of the present case are considered in the light of the aforesaid authoritative pronouncements on the right of the accused to speedy trial. It transpires that there is no denial that the FIR was lodged on 14.04.2008 and the petitioner was declared innocent on 08.01.2009. Till date, the investigation is still pending. The petitioner is subjected to unduly prolonged investigation. Fairness implicit in Article 21 confers a right on the petitioner to be tried speedily. The right to speedy trial under Article 21 encompasses all the stages of investigation, inquiry, trial. There is no justification for subjecting a citizen to an indefinite period of investigation. The inaction on part of the Investigating Agencies and the concerned Court in the present case cannot be accepted and it cannot be

allowed to continue indefinitely. The State is under obligation to ensure speedy justice to its citizens. The inherent fairness embeded in Article 14, 19 and 21 makes it obligatory for the State to provide a procedure which is fair, reasonable and just.

9. The present case is not a case of grave magnitude and diabolic in nature which shocks the conscience of the society to prevent this Court from exercising its inherent jurisdiction under Section 482 of Cr.P.C. The Investigating Agency cannot be allowed to perpetuate illegal inaction and inflict more misery on the petitioner in violation of his right to life and liberty under Article 21 of the Constitution of India. Therefore, this Court is of the considered opinion that this is a fit case to exercise its powers under Section 482 of Cr.P.C. to put an end to indefinite and protracted investigation pending for more than 15 years.

CONCLUSION

10. In view of the above, the impugned FIR No. 78 dated 14.04.2008 (Annexure P-1) registered under Section 436, 120-B of Indian Penal Code (Sections 435/457/456/427 of IPC added later on) at Police Station Maqsudan District Jalandhar and order dated 08.03.2019 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Jalandhar are hereby quashed. The bail bonds of the petitioner stands discharged.

11. Pending CRM(s), if any, are also disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

17.11.2023
Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No