



CRM-M-32585-2018

petitioner-Darshan Singh entered into a deal to sell the land to abovesaid Tarsem Singh. Tarsem Lal purchased the total land measuring 33 kanals-13 marlas from the petitioners. The petitioners executed total six sale deeds first in favour of Tarsem Singh, first being on 10.3.2005, second deed in favour of Roop Lal, third sale deed in favour of Dev Raj on 13.6.2005, fourth sale deed in favour of Roop Lal on 13.6.2005, fifth sale deed was executed by petitioner-Sewa Singh after coming from abroad in favour of Charan Dass on 13.11.2003 and the last i.e. 6th sale deed was executed by both the petitioners in **CRM-M-44411-2018** in favour of Tarsem Lal on 21.4.2004. It was specifically mentioned in the sale deeds that that the sold land is only for the purpose of agriculture. Thereafter, the mutation qua the abovesaid land was sanctioned in favour of the respective purchasers. The abovesaid purchaser Tarsem Lal in connivance with other persons started selling the abovesaid agriculture land by issuing plots in the said land and the number of persons were allotted the plots. While noticing the issuance of plot by abovesaid Tarsem Lal and others, the Punjab Urban Development Authority Department while taking action against them lodged the present F.I.R. against the petitioners except the abovesaid Tarsem Lal and others.

3. Learned counsel for the petitioners *inter alia* contends that the entire land owned by the petitioners has been sold to co-accused Tarsem Lal way back, from 2003-2005 by executing six sale deeds. The mutation was also sanctioned in favour of the purchaser by the Revenue Authority and the revenue record clearly indicates that nature of land is agricultural. Tarsem Lal after purchasing the agricultural land has

carved out a Colony, for which the subsequent purchasers can only be held liable for any violation of Punjab Apartment and Property Regulation Act, 1995. Petitioner-Darshan Singh represented before the Jurisdictional Police Authority vide representation dated 02.02.2006 (Annexure P-3) for checking the veracity of the allegations and also the involvement of the petitioners. The Deputy Superintendent of Police, Phillaur, after investigation, concluded that the petitioners are innocent and he recommended action against the subsequent purchasers vide report dated 12.03.2007 (Annexure P-4). The said Tarsem Lal had also appeared before the Deputy Superintendent of Police, Phillaur and admitted that he has purchased the land from the petitioners and thereafter they have carved out plots without the permission of the appropriate Government Authority and he further agreed to pay the necessary fee for compounding of the offence. Learned counsel for the petitioners further contends that the FIR was registered in the year 2005 and the Jurisdictional Police Authority have prepared the un-traced report on 27.11.2007, however, the Senior Superintendent of Police, Jalandhar Rural did not approve the same on 24.11.2009. The learned counsel refers to the reply dated 23.01.2020, filed by the State of Punjab, which clearly indicates that the petitioners have been declared innocent, as is discernible from para 3 of the said reply. He further refers to para 6 of the aforesaid reply and submits that the Greater Ludhiana Area Development Authority (hereinafter to be referred as 'GLADA') has received the enhanced amount for regularization of the plots and GLADA has instructed the police authorities, not to initiate any further legal action.

4. Having heard the learned counsel for the petitioners and after perusing the record, it transpires that the petitioners are Senior Citizens and the Investigating Agency has already declared them innocent, yet in spite of passing of 18 years, investigation of the case has not been concluded. 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 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 and 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.”*

5. 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 thc 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.”*

6. 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 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.”*

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 17.11.2005 and the petitioners was declared innocent on 12.03.2007. Till date, the investigation is still pending. The petitioners are subjected to unduly prolonged investigation. Fairness implicit in Article 21 confers a right on the petitioners 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 embedded in Article 14, 19 and 21 makes it obligatory for the State to provide a procedure which is fair, reasonable and just.

8. The Investigating Agency cannot be allowed to perpetuate illegal inaction and inflict more misery on the petitioners 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 18 years.

9. The petitioners have sold the agricultural land and the subsequent purchasers have already deposited the requisite fees with the appropriate authority for compounding of the offence. From the bare perusal, no offence as alleged in the FIR, is made out against the petitioners. In view of the same, the impugned FIR No. 155 dated 17.11.2005 registered under Section 36 of Punjab Apartment and

Property Regulation Act, 1995, Police Station Guraya, District Jalandhar is hereby quashed qua the petitioners only. The bail bonds and surety bonds of the petitioners stand discharged.

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

20.01.2024  
*Ajay Goswami*

(HARPREET SINGH BRAR)  
JUDGE

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No