



**230 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-43372-2024 (O&M)
Date of decision: 10.12.2024**

Sukhbir Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. J.S. Grewal, Advocate for the petitioners.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. The present petition has been preferred under Section 528, Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter 'BNSS') seeking quashing of FIR No. 28 dated 23.03.2013 registered under Sections 376, 109 IPC at Police Station Ghuman, Batala.

2. Briefly, the facts, as alleged by the prosecution, are that respondent No.2 was married to one Satbir Singh, who passed away on 03.11.2011 in England. Thereafter, respondent No.2 was told by the petitioners, her mother-in-law and brother-in-law, respectively, that she could continue residing in the matrimonial home. Respondent No.2 started living with petitioner No.1 as husband and wife, as she was assured that she will be got married to petitioner No.1 also developed physical relations with her. The petitioners demanded money from respondent No.2 and also pressurized her to transfer property in their name. On her refusal, respondent No.2 was beaten and threatened to be put behind the bars. Subsequently, petitioner No.1 moved to Norway and his marriage was fixed with another woman. The motorcycle brought by respondent No.2 at the time of her marriage was sold by her sister-



in-law by forging her signatures and she was shunned out of her matrimonial home.

3. Learned counsel for the petitioners, *inter alia*, contends that there is an unexplained delay of more than 2 years in lodging FIR (*supra*). The FIR (*supra*) reflects no specific date or time for the alleged occurrences. Learned counsel submits that even after passing of more than 11 years, the investigating agency has failed to conclude the investigation. In fact, the police had presented a cancellation report on 18.02.2016, as there was no evidence to support the prosecution story. Learned counsel further submits that the complainant has already made a statement before the jurisdictional police authorities that she does not want to pursue her complaint made against the petitioners. Thereafter, the untraced report was filed on 29.01.2020 in the present case and notice was issued to the complainant, however, the perusal of *zimni* orders (Annexure P-4) would reflect that she did not come present, which shows that she was not interested in pursuing the matter. Learned counsel further submits that the learned Court below rejected the untraced report vide order dated 14.10.2021 (Annexure P-5), without assigning any reasons for the same.

4. Learned State counsel submits the short reply by way of an affidavit dated 09.12.2024 tendered by Harkrishan Singh, PPS, Deputy Superintendent of Police, Sub-Division Sri Hargobindpur, Police District Batala, District Gurdaspur, which is taken on record.

5. I have heard learned counsel for the parties and perused the record with their able assistance.



6. A perusal of the affidavit dated 09.12.2024 indicates that respondent No.2 has been residing abroad, that is why her presence could not be secured by the Investigating Officer. Pertinently, the FIR(supra) was registered about 11 years ago and no incriminating evidence was found against the petitioners during investigation. Time and again the Hon'ble Supreme Court has reiterated that the right to speedy trial forms a part of the right to life as enshrined under Article 21 of the Constitution of India. In this regard, the trial, would refer to investigation, trial, appeal, and covers all stages i.e. from accusation to the final verdict of the last Court. No citizen can be deprived of his liberty by a procedure which is not reasonable, fair or just, as such deprivation would be in direct violation of Article 21 of the Constitution of India. A Constitution Bench of Hon'ble Supreme Court in ***Maneka Gandhi Vs. Union of India and another 1978(1) SCC 248*** has held the protection enshrined under Article 21 of the Constitution of India confers a fundamental right on every citizen to not to be deprived of his liberty except according to the procedure established by law, which must be reasonable, fair and just. The right to speedy trial, undoubtedly, flows from this concept of fairness. It was observed that any procedure which does not ensure a reasonably quick trial, would fall foul of Article 21 of the Constitution of India. Reference in this regard can also be made to the the judgments rendered by 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) 634, Common Cause A Registered Society Vs. Union of India 1996 (6) SCC 775.***



7. A Constitution Bench of the Hon'ble Supreme Court in ***P. Ramachandra Rao (supra)***, speaking through Justice R.C. Lahoti, opined as follows:

“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.”

Further, a larger bench of the Hon'ble Supreme Court in ***Abdul Rehman Antulay (supra)*** has observed that the determination of the guilt or innocence of the accused must be arrived at with reasonable dispatch. Speaking through Justice B.P. Jeevan Reddy, the following was opined:

“49. ... In other words, such law should provide a procedure which is fair, reasonable and just. Then alone would it be in consonance with the command of Article 21. Indeed, wherever necessary, such fairness must be read into such law. 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 declared 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 despatch - 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. It is more so, if he is arrested. If it is a serious offence, the man may stand to lose his life, liberty, career and all that he cherishes.”

8. Adverting to the matter at hand, it transpires that the FIR was lodged on 23.03.2013 and the petitioners were declared innocent on thorough investigation. Respondent No.2 filed FIR(supra) and has now moved abroad. The petitioners are being subjected to unduly prolonged trial, which has lasted for about 11 years now, merely because respondent No.2 refused to participate in the same. There is no justification for subjecting a citizen to an indefinite period of investigation and trial. The trial has been practically kept in suspended animation due to the nonchalant attitude of respondent No.2, causing unwarranted agony to the petitioners.

9. In view of the discussion above, 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 trial pending for a decade. Accordingly, the FIR No. 28 dated 23.03.2013 registered under Sections 376, 109 IPC at Police Station Ghuman, Batala and all subsequent proceedings arising therefrom hereby stand quashed qua the petitioners. The petition stands allowed.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.

10.12.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No