

2024:PHHC:164743



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

CRM-M-61398-2024
DECIDED ON: 09.12.2024

NITIN MITTAL

.....PETITIONER

VERSUS

VIPIN @ VIPAN BHANDARI

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Anamika Sheoran, Advocate for
Mr. Vikas Singh, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 528 of BNSS, 2023 for directing the learned Judicial Magistrate, 1st Class, Ludhiana in complaint No.COMA/14792/2018 dated 29.10.2018, under Section 138 of Negotiable Instruments Act, 1881 to decide the case expeditiously within time.

2. This court cannot shut its eyes to the fact that "Speedy trial" and "fair trial" to a person accused of a crime are integral part of Article 21. There is, however, qualitative difference between the right to speedy trial and the accused's right of fair trial. Unlike the accused's right of fair trial, deprivation of the right to speedy trial does not *per se* prejudice the accused in defending himself. The right to speedy trial is in its very nature relative. It depends upon diverse circumstances.

Each case of delay in conclusion of a criminal trial has to be seen in the facts and

circumstances of such case. Mere lapse of several years since the commencement of prosecution by itself may not justify the discontinuance of prosecution or dismissal of indictment. The factors concerning the accused's right to speedy trial have to be weighed vis-a-vis the impact of the crime on society and the confidence of the people in judicial system. Speedy trial secures rights to an accused but it does not preclude the rights of public justice. The nature and gravity of crime, persons involved, social impact and societal needs must be weighed along with the right of the accused to speedy trial and if the balance tilts in favour of the former the long delay in conclusion of criminal trial should not operate against the continuation of prosecution and if the right of the accused in the facts and circumstances of the case and exigencies of situation tilts the balance in his favour, the prosecution may be brought to an end. These principles must apply as well when the appeal court is confronted with the question whether or not retrial of an accused should be ordered."

3. Further reliance can be placed upon the dictum of Apex court in '*Anokhilal v. State of Madhya Pradesh CRA-62-63 of 2014 SC*' wherein it has been held that "Expeditious disposal is undoubtedly required in criminal matters and that would naturally be part of guarantee of fair trial. However, the attempts to expedite the process should not be at the expense of the basic elements of fairness and the opportunity to the accused, on which postulates, the entire criminal administration of justice is founded. In the pursuit for expeditious disposal, the cause of justice must never be allowed to suffer or be sacrificed. What is paramount is the cause of justice and keeping the basic ingredients which secure that as a core idea and ideal, the process may be expedited, but fast tracking of process must never ever result in burying the cause of justice".

4. In view of the discussions made hereinabove and however, keeping in view the stage of trial, this Court deems it appropriate to direct the trial court to make an endeavour to conclude the trial within a period of one year from the date of receipt of certified copy of this order.
5. The petition is disposed off, in the aforesaid terms.

09.12.2024

Meenu

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No