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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 3783/2024**
ANAND PAL MALIKPetitioner

Through: Mr. Shiv Chopra, Ms.
Surbhi Arora & Mr.
Siddharth Arora, Advs.
along with petitioner in
person.

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **04.12.2024**

CRL.M.A. 36357/2024 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present petition is filed seeking issuance of directions to the learned Trial Court to expeditiously conduct and conclude trial in a time bound manner in complaint case No.1740/2017 pending before the learned Metropolitan Magistrate ('MM'), Shahdara, Karkardooma Courts, Delhi.

4. The complaint case was filed at the instance of Respondent No. 2. It is the case of Respondent No. 2 that on 14.06.2016, the petitioner had approached him for the advancement of a friendly loan for a sum of ₹20,00,000/- for a period of 6 months. Consequently, Respondent No. 2 advanced a loan for a sum of ₹20,00,000/- to the petitioner. It is alleged that thereafter, post the expiry of 6 months, the petitioner, in discharge of his liability, issued a cheque bearing No. 110639 dated 14.02.2017 for a sum of ₹20,00,000/-. The said cheque, upon presentation,



got dishonoured and returned unpaid with remarks “*Funds Insufficient*” vide return memo dated 21.02.2017. Subsequently, on the non-payment of the said amount by the petitioner within the statutory period, despite the issuance of demand notice, Respondent No. 2 filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (**‘NI Act’**)

5. The same is pending before the learned MM, and the petitioner, by way of the present petition, seeks issuance of directions to the learned Trial Court to conclude the trial expeditiously.

6. The complaint was filed in the year 2017. Certain order sheets have been filed to contend that delay has been caused without any fault of the petitioner.

7. I have perused the order sheets placed on record.

8. On some occasions, the learned Presiding Officer was on leave, however, on some occasions, time was taken for the service of the process. At some stages, bailable warrants were issued against the petitioner for non-appearance.

9. On 10.01.2020, non-bailable warrants were issued against the petitioner and notice was issued to the surety on account of the absence of the petitioner. It is also common knowledge that from March, 2020 up to March, 2022, not much work happened in Courts all over India on account of the onset of Covid-2019. The order sheets thereafter do not indicate that the delay has happened because of the complainant.

10. It is not in doubt that speedy trial is the backbone of justice. It is essential not only to safeguard the rights of the victim but also that of the accused. A litigant must not unreasonably be made to undergo prolonged litigation, and every effort ought to be made for the expeditious disposal of cases.



11. Having noted that, it ~~and~~ also be denied that Courts across the country are inundated with heavy judicial work. It is also not in doubt that judicial officers are earnestly striving to ensure expeditious and timely disposal of cases.

12. For this reason, the Hon'ble Apex Court, recently, in the case of ***High Court Bar Association, Allahabad v. State of U.P. & Ors. : 2024 INSC 150*** in relation to direction by Constitutional Courts to dispose cases in a time-bound schedule observed as under:

*“31. The situation in Trial and district Courts is even worse. In 2002, in the case of All India Judges’ Association & Ors. v. Union of India & Ors.14, this Court passed an order directing that the judge-to-population ratio within twenty years should be 50 per million. Even as of today, we are not able to reach the ratio of even 25 per million. The directions issued in the case of Imtiyaz Ahmed v. State of Uttar Pradesh & Ors.15 have not been complied with by the States by increasing the Judge strength of the Trial and District Courts. The figures of pendency of cases in our trial Courts are staggering. There are different categories of cases which, by their very nature, are required to be given utmost priority, such as the cases of the accused in jail and the cases of senior citizens. For example, there are many legislations like the Hindu Marriage Act, 1955, the Protection of Women from Domestic Violence Act, 2005, the Negotiable Instruments Act, 1881 etc which prescribe specific time limits for the disposal of cases. However, due to the huge filing and pendency, our Courts cannot conclude the trials within the time provided by the statutes. **There is a provision in the Code of Criminal Procedure, 1973, in the form of Section 309, which requires criminal cases to be heard on a day-to-day basis once the recording of evidence commences. The same Section provides that in case of certain serious offences against women, the cases must be decided within two months of filing the charge sheet. Unfortunately, our Criminal Courts are not in a position to implement the said provision. Apart from dealing with huge arrears, our Trial Courts face the challenge of dealing with a large number of cases made time-bound by our constitutional Courts. Therefore, in the ordinary course, the constitutional Courts should not exercise the power to direct the disposal of a case before any District or Trial Court within a time span. In many cases, while rejecting a bail petition, a time limit is fixed for disposal of trial on the ground that the petitioner has undergone incarceration for a long time without***



realising that the concerned Trial Court may have many pending cases where the accused are in jail for a longer period. The same logic will apply to the cases pending before the High Courts. When we exercise such power of directing High Courts to decide cases in a time-bound manner, we are not aware of the exact position of pendency of old cases in the said Courts, which require priority to be given. Bail petitions remain pending for a long time. There are appeals against conviction pending where the appellants have been denied bail.

32. Therefore, constitutional Courts should not normally fix a time-bound schedule for disposal of cases pending in any Court. The pattern of pendency of various categories of cases pending in every Court, including High Courts, is different. The situation at the grassroots level is better known to the judges of the concerned Courts. Therefore, the issue of giving out-of-turn priority to certain cases should be best left to the concerned Courts. The orders fixing the outer limit for the disposal of cases should be passed only in exceptional circumstances to meet extraordinary situations.

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“37.c. *Constitutional Courts, in the ordinary course, should refrain from fixing a time-bound schedule for the disposal of cases pending before any other Courts. Constitutional Courts may issue directions for the time-bound disposal of cases only in exceptional circumstances. The issue of prioritising the disposal of cases should be best left to the decision of the concerned Courts where the cases are pending;...*”

(emphasis supplied)

13. For this reason, this Court cannot advise the learned Trial Court to conduct the trial in a particular manner. Further, a perusal of the order sheets does not indicate that the learned Trial Court is not proceeding with the matter in a judicial and proper manner. It cannot further be denied that trials are hindered because of multifaceted reasons, each contributing to the consequential delay in the disposal of cases. These include the non-availability of witnesses, non-prosecution by parties after initiation of proceedings, non-availability of counsels, operation of stay, service of process, miscellaneous applications adding to the delay in the disposal of the main petition, *etcetera* to name a



few. The onset of Covid-19 ~~from~~ served as a cataclysmic blow to the docket of pendency of cases in Courts.

14. It has further been informed that the petitioner owns a residential property in Shalimar Garden, Uttar Pradesh. The petitioner does not appear to be someone in need of legal aid at the expense of other litigants and exchequer. Courts in the recent past have experienced that litigants who are not genuinely in need file frivolous petitions taking help of DHCLSC.

15. Filing of petitions of such nature only inundate the Courts thereby adding to the pendency and consequential delay in the disposal of cases to the detriment of other litigants.

16. The same also comes at the expense of the access to the resources of the DHCLSC by *bona fide* litigants. The present case is also one such case which in the opinion of this Court ought not to have been filed.

17. While providing aid to the needy is imperative, the same should not be such so as to hamper judicial process. The pendency of such cases takes away valuable judicial time which could be devoted to ensure the disposal of cases filed by genuine litigants. The Secretary of DHCLSC is therefore advised to *prima facie* ascertain the genuineness of cases so as to not allow the filing of frivolous cases. It shall ascertain the necessity and *prima facie* merit of the prayers sought before taking a decision as to the filing of a case on behalf of a litigant.

18. The present petition is dismissed with aforesaid observations.

AMIT MAHAJAN, J

DECEMBER 4, 2024/“SK”