

**IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction
Appellate Side**

CRA 427 of 1988

In the Matter of: **Nasir Ahmed Mullick**

.... Appellant

Mr. Debasis Sur,
Mr. Mrinmoy Chatterjee,

... for the appellant

Mrs. Faria Hossain, Ld. A.P.P.
Ms. Trina Mitra

.. for the State

1. This appeal is filed at the behest of the appellant challenging the impugned judgement and order of conviction under Section 7(I)(a)(ii) of the Essential Commodities Act and for violation of the provision of para 3(2) of the West Bengal Declaration of Stocks and prices of Essential Commodities Order, 1977 and was sentence to suffer rigorous imprisonment for four months along with a fine of Rs. 1,000/- (One Thousand) and in default of payment of fine to undergo further rigorous imprisonment for one month.
2. Being aggrieved by and dissatisfied with the said impugned judgement and order the present appeal is filed at the behest of the appellant.
3. The appeal was taken up for hearing on April 11, 2008 and as the learned Counsel for the appellant was not present, the Co-ordinate Bench of this Court was pleased to direct the department to issue administrative notice along with a warrant of arrest against the appellant. The appellant was arrested and

was taken into custody on March 19, 2010. This appellant was subsequently, released on bail by passing an order dated 13.7.2010 by this Court.

4. It appears from the records that on subsequent dates the appellant remained absent before this Court, and in view of such absence, an administrative notice was issued upon him. Despite such direction, the appellant failed to appear. Consequently, a direction was issued upon the State to secure a report from the concerned Correctional Home as to whether the appellant had already undergone the sentence imposed by the learned Trial Court in the impugned judgment and order of conviction.
5. In compliance, a report has been furnished by the Officer-in-Charge, Law Cell, Office of the ADG and IG of Correctional Services, West Bengal, which has been produced before this Court during the course of hearing by the learned Advocate for the State. The said report reveals that the accused-petitioner, namely Nasir Ahmed Mullick, was admitted to the Correctional Home in March, 2010 and was released after approximately three months and ten days. However, the report candidly records that there are no surviving documents to substantiate such details since the relevant records had been destroyed in a fire.

6. The impugned judgment reflects that the appellant was sentenced to suffer rigorous imprisonment for a period of four months along with payment of a fine of Rs. 1,000/-. According to the report of the Correctional Home, the appellant had been arrested and thereafter released after serving roughly three months of custody.
7. It is pertinent to note that the case itself was instituted in the year 1986, and the judgment of conviction was delivered by the learned Trial Court on 13th September, 1988. An appeal was thereafter preferred in 1988, which has remained pending before this Court ever since.
8. The report submitted by the Officer-in-Charge, Law Cell, Office of the ADG & IG of Correctional Services, W.B., be taken on record.
9. I have carefully examined the impugned judgment and order of conviction passed by the learned Trial Court as well as the entire materials available on record. The evidence of the prosecution witnesses, the documents exhibited, and the circumstances brought on record have been duly appreciated by the learned Trial Court in its proper perspective. Upon independent scrutiny of the same, I find that the findings recorded in the judgment are based on cogent reasoning and supported by the materials on record.

10. No perversity, illegality, or material irregularity has been demonstrated which would warrant interference by this Court in the exercise of appellate jurisdiction. The appreciation of evidence by the learned Trial Court appears to be fair, reasonable, and in consonance with the settled principles of law.
11. Accordingly, I do not find any ground to take a view different from the one adopted by the Trial Court. The impugned judgment and order of conviction, therefore, calls for no interference and is hereby affirmed
12. It is beyond dispute that the right to a speedy trial is not merely a lofty ideal, but a constitutional mandate. The essence of Article 21 of the Constitution, which guarantees protection of life and personal liberty, inherently encompasses the entitlement to have criminal proceedings concluded within a reasonable time. No process that seeks to deprive a person of liberty can be regarded as “reasonable, fair and just” unless it guarantees a timely and expeditious resolution of the matter.
13. Any procedure or practice that allows proceedings to drag on indefinitely or suffer from extraordinary delays would necessarily contravene the protections enshrined under Article 21. Prolonged adjournments, years of pendency, or procedural lethargy, therefore, strike at the very foundation of a person’s fundamental right to liberty and a fair trial.

14. In the facts of the present case, this Court cannot remain oblivious to the inordinate lapse of time. The core value of justice rests upon prompt adjudication and timely enforcement of rights and obligations. However, here, a delay of nearly thirty-nine years has defeated that very purpose. The underlying philosophy of criminal jurisprudence is that once guilt is established, punishment must closely follow, both to serve as a deterrent to others and to operate as a reformative measure for the offender.
15. When the sentence is sought to be executed after such an extraordinary lapse of decades, the rationale of punishment stands eroded. The deterrent effect no longer survives, and the reformative objective also loses its relevance. What remains is only a mechanical execution of sentence which, instead of advancing justice, assumes the character of retribution. Such delayed enforcement frustrates the true object of criminal law and fails to achieve the balance which justice demands between the offence, the offender, and society at large.
16. The aforesaid reasons which, in my view, are the special reasons and accordingly alter the jail sentence imposed on the appellant will be reduced to what is already undergone by the appellant. In other words, this Court alter the jail sentence of the appellant and award him "what is already undergone by him" and at the same time directed to deposit the fine amount of

Rs.1000/ as directed by the Trial Court to meet the ends of justice.

17. The appellant is, therefore, now not required to undergo any more jail sentence. However, in case he fails to deposit the fine amount of Rs.1,000/- within two months from this date, if already not paid by the appellant, he will have to undergo simple imprisonment for a period of one month.
18. In view of the foregoing discussion, the appeal succeeds and is **partly allowed**. The impugned judgement and order is modified to the extent indicated above.
19. Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Prasenjit Biswas, J.)