

09.02.2026  
Item No.3  
Ct. No. 34  
nb

**CRR 3039 of 2022**

In the matter of: **Sovan Krishna Mukhopadhyaya & Anr.**  
..... Petitioners.

Mr. Tapan Dutta Gupta,  
Mr. Parvej Anam,  
Ms. Rituparna Ghosh,  
Mr. Sourav Sardar,  
.....For the Petitioners.  
Mr. Debasish Roy, Id. P.P.  
Mr. Koushik Kundu,  
..... For the State.

1. This revisional application has been filed for quashing of the proceeding being NGR Case No.801 of 2013 arising out of P.R. No.166 of 2013 dated 20.11.2013 under Section 34 and 61 of the Police Act by Officer-in-Charge, Hasnabad Police Station, North 24 Parganas pending in the Court of Learned Judicial Magistrate, 1<sup>st</sup> Court, Basirhat, North 24 Parganas.
2. The case of the petitioners in a nutshell is that the allegation was levelled against them to that effect that on November 19, 2013, the petitioners were creating disturbance to the public peace and tranquillity and also disturbed the traffic near Hasnabad B.D.O. office and as they could not be stopped, the police arrested them under the Police Act and prayed to prosecute them along with others.

3. The Learned Magistrate, Basirhat, North 24 Parganas after receiving the same, took cognizance and also granted bail on the date i.e 20.11.2013. After long four and half years, the case was transferred to the Court of Learned Judicial Magistrate, 1<sup>st</sup> Class, 1<sup>st</sup> Court, Basirhat for disposal and the copy of the P.R had been served upon them. After two years from such transfer, they were examined under Section 251 of the Code of Criminal Procedure on 10.03.2020 and date was fixed for evidence on 02.04.2020. It is further case of the petitioners that after a prolong delay of one year and nine months from date, the evidence of P.W.1 could be taken on December 16, 2021 and because of non-appearance of the P.W. 2, an order of issuing Warrant of Arrest against P.W.2 was passed on December 16, 2021 fixing the next date on September 14, 2022 and is still pending.

4. Learned counsel appearing on behalf of the petitioners submits that from the date of the incident more than eight years have been passed but the same could not be reached in its logical conclusion and as a result, petitioners have been highly prejudiced.

5. It is also submitted that the petitioners are not the habitual offenders and/or have any criminal antecedent despite that, they were bear hazards of such prolonged process of trial. By this, they have suffered tremendous mental anxiety during these long years.

6. That apart, in terms of Section 34 of the Police Act under which they have been booked cannot have any application as in absence of any allegation, the petitioners were cautioned and/or alerted before they were arrested, therefore, filed this application for quashing of the proceeding.

7. Learned counsel in support of his contention, , has relied upon the decisions of ***Vakil Prasad Singh Vs. State of Bihar*** reported in ***(2009) 1 C Cr LR (SC) 628*** and ***Arun Kumar Ghosh Vs. The State of West Bengal*** reported in ***1991 C Cr.LR (Cal) 265*** in order to substantiate that delay in trial can be a ground for quashing of the proceeding.

8. The Prosecution has raised strong objection and candidly submits that there was initial delay in transferring the case but, the matter is now at the stage of taking evidence of P.W.2 and P.W.1, has been concluded and it is likely to be taken up within a reasonable period of time. Accordingly prays for dismissal of this revisional application.

9. Heard the submission of both parties.

10. The genesis of this case can be traced out from the report for the prosecution which reveals that on 19.11.2023, the present petitioners created disturbance in public peace and tranquility and also disturbed the traffic near Hasnabad B.D.O. office in presence of the police authority and having no other alternative they had to stop and accordingly, the proceeding was initiated. On receipt of the same the Learned Magistrate granted

the bail and also took cognizance on 20.11.13 when the petitioners were brought under arrest and next date was fixed on December 2, 2013.

11. On a careful perusal of the certified copy of the order sheet, it reveals that after such order was passed in the year of 2013, the matter kept pending and was taken on February, 2018 for appearance of the accused persons. It further transpires from the copy of the orders passed on different dates that there are huge gap in between the dates given by the court and the date was fixed for charge long thereafter on 21.2.2020 and then the matter was taken up for examination under Section 251 of the Code of Criminal Procedure of the accused persons. Thereafter the matter kept pending further for taking evidence since 2020 till 2022 and the witnesses did not turn up on several occasion which resulted in issuance of witnesses warrant i.e. which is still pending. On close scrutiny of the orders, no such contribution is attributed s against the petitioner for causing this inordinate delay .

12. In the decision of **Arun Kumar Ghosh (supra)** it was held that the administration of justice requires that the accused is entitled to have as much protection as the prosecution is entitled to. Waste of time affects the defence case and the witnesses, which the accused may choose to examine may be suffering from physical inability during time. It was further held that in the event of trial being dragged for years together the judicial view is

in favour of dropping of the proceeding irrespective of the nature of the case. The mental torture and anxiety suffered by an accused for a long length of time is to be treated as sufficient punishment inflicted on him.

13. In the case of **Vakil Prasad Singh (supra)** the Hon'ble Supreme Court stressed upon speedy trial as every person is entitled to speedy trial. In that case, trial was pending since 1992 and the charge-sheet was not filed till 2009. It was held that the fundamental right of speedy trial of the appellant is violated and it was a fit case for quashing of the proceeding.

14. In a very recent decision of the Hon'ble Supreme Court it has been held that the right to speedy trial, enshrined in the constitution under Article 21 is not eclipsed by the nature of offence. It is settled that by the judicial interpretation that reasonable expeditious trial is an integral and essential part of the Fundamental Rights to life and liberty enshrined in the constitution and the prolong delay in disposal of the trial is violation of the fundamental right. From the nature of allegation it is evident that it is a petty case which is pending for adjudication for 8 years and even after the expiry of the interim order in the year 2023 the matter is not concluded as of now and such delay is not for fault of the accused and hence is violative of the constitution and the proceedings are liable to be quashed.

15. It is settled law that in order to prevent abuse of the process of law and to secure the ends of justice the High court can exercise the power under Section 482 for quashing of the proceeding. In this case, the nature of allegation levelled itself manifests that because of that offence, as alleged, the matter is pending since 2013 and without any explanation as to why after four years from the date of arrest of the petitioners, the same was referred before the Court for disposal of the case. Admittedly, witnesses were not turning up resulted in issuance of witness warrant and hence this Court is of the view that if this proceeding is further allowed to be continued further it would be a gross abuse of the process of law.

16. Accordingly, this revisional application stands allowed and the entire proceeding pending before the learned Court hereby quashed.

17. No order as to costs.

18. Let a copy of the order be forwarded to the learned court for information and taking necessary steps.

19. Urgent certified copy be supplied if applied for after following all required formalities.

**(CHAITALI CHATTERJEE (DAS), J.)**