IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 1156 of 2026
Reserved on: 14.10.2026
Date of Decision: 28.10.2026.

Sher Singh ...Petitioner

Versus

Kanwar Shiv Pal Singh ...Respondent

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] *No*

For the Petitioner : Mr Devender K. Sharma, Advocate.
For the Respondent : Nemo

Rakesh Kainthla, Judge

The present petition is directed against the order dated 11.09.2026 passed by the learned Chief Judicial Magistrate Kullu, District Kullu (learned Trial Court) vide which the defence evidence was closed by the order of the Court. *(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.)*

2. It has been asserted that the respondent/complainant has filed a complaint against the petitioner/accused for the

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

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commission of an offence punishable under Section 138 of the Negotiable Instruments Act (NI Act) for the dishonour of the cheque of ₹4,90,000/-. The petitioner/accused had filed an application under Section 145(2) of the NI Act for the cross-examination of the complainant, which was allowed by the learned Trial Court. The matter was listed before the learned Trial Court on 12.12.2023, but the petitioner/accused could not appear before the Court as he was arrested by the police of Police Station, Devsar, District Kulgan, Jammu and Kashmir. The petitioner was released on bail on 20.02.2024. The petitioner suffered from a major paralytic attack and was unable to walk. The learned Trial Court initiated proceedings for proclamation. The petitioner filed an application under Section 70(2) of the Bharatiya Nagarik Suraksha Sanhita (BNSS) for cancellation of non-bailable warrants of arrest and grant of bail, which was allowed. The matter was listed for defence evidence. The accused could not take steps to produce defence evidence, and the learned Trial Court closed the evidence by order of the Court. A false complaint has been filed against the petitioner/accused, and he would be deprived of a chance to prove his defence. The learned Trial Court has mechanically closed the evidence, and this order

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will cause serious prejudice to the petitioner/accused. Hence, it was prayed that the present petition be allowed and the order passed by the learned Trial Court be set aside.

3. Mr Devender K. Sharma, learned counsel for the petitioner, submitted that the petitioner/accused could not produce the evidence before the learned Trial Court because of his medical condition. He would be deprived of his right to produce the evidence to prove his innocence. Therefore, he prayed that the present petition be allowed and the order passed by the learned Trial Court be set aside.

4. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

5. The petitioner/accused has filed the medical record regarding his treatment by a physiotherapist in October, 2023. He has also filed a prescription slip showing that he was treated on 05.06.2025 with a complaint of recurrent CVA. It is difficult to see how these documents would assist in establishing that the petitioner/accused had a reasonable cause for not producing the evidence on 11.09.2026, the date fixed before the learned Trial Court. The treatment record pertained to the years 2023 and 2025

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and not to the year 2026. Therefore, the plea that the petitioner/accused was unable to produce the evidence because of his serious medical condition is not acceptable.

6. Section 346 of Bharatiya Nyaya Suraksha Sanhita, 2023 (BNSS), corresponding to Section 309 of the Cr.P.C., deals with the adjournments. It reads that every inquiry or trial shall be concluded on a day-to-day basis unless the Court finds the adjournment necessary for reasons to be recorded. It was submitted that a fair trial demands that adequate opportunities be granted to the accused to defend himself. This submission will not help the petitioner/accused. It was held in ***Asha Ranjan v. State of Bihar, (2017) 4 SCC 397: (2017) 2 SCC (Cri) 376: 2017 SCC OnLine SC 140*** that the accused cannot go on seeking adjournments in the name of a fair trial. It was observed at page 435:

> "**63.** While appreciating the concept of public interest in such a situation, the Court is required to engage itself in construing the process of fair trial, which ultimately subserves the cause of justice and remains closer to constitutional sensibility. An accused, in the name of a fair trial, cannot go on seeking adjournments, defeating the basic purpose behind the conducting of a trial as enshrined under Section 309 CrPC. He cannot go on filing applications under various provisions of the Criminal Procedure Code, whether tenable or not, and put forth a

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> plea on each and every occasion on the bedrock that the principle of fair trial sanctions it. In such a situation, as has been held by this Court, the prosecution, which represents the cause of the collective and the victim, who fights for a remedy of his individual grievance, is allowed to have a say, and the court is not expected to be a silent spectator. Thus, the discord that arises when there is intra-conflict in the same fundamental right, especially in the context of a fair trial, has to be resolved with regard being had to the obtaining fact situation. An accused who has been able to, by his sheer presence, erode the idea of safety of a witness in court, or, for that matter, impair and rust the faith of a victim in the ultimate justice, and such erosion is due to fear psychosis prevalent in the atmosphere of trial, is not to be countenanced as it is an unconscionable situation. Such a hazard is not to be silently suffered because the "Majesty of Justice" does not allow such kinds of complaints to survive."

7. It was submitted that the adjournment should have been granted in the interest of justice. This submission cannot be accepted. Delhi High Court held in ***Jasbir Sobti v. Surender Singh, 2008 SCC OnLine Del 845,*** that adjournments cannot be granted in the interest of justice. It was observed:

> **6.** The question that arises for consideration is whether another opportunity is to be given to the plaintiffs under the cloak of 'in the interest of justice'. The answer to this question would lie in replying to the related question, namely, whether the interest of justice demands that the case be decided on merits even when there are lapses galore on the part of the plaintiffs in not prosecuting the case diligently, thereby delaying the process endlessly. We are afraid, in the name of justice, that no such licence can be given to the plaintiffs. No doubt, if there is a minor

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procedural lapse, that can be condoned, and the main purpose of the Court is to see that such cases are decided on the merits. However, that would not mean that the plaintiffs or the defendants are allowed to drag on the proceedings unnecessarily by taking adjournments continuously. Again, that does not mean that the parties do not take steps in further progress of/the case, namely, fail to file the documents, conduct admission/denial and even fail to appear repeatedly. We have to keep in mind the interests of the opposing party as well. If the matter is dragged out like this and the opposing party is made to appear on each date and asked to come on the next date only because nobody is appearing on behalf of the plaintiffs, it causes unnecessary harassment to the opposite party as well. Therefore, in all such matters, the Court is under a duty to weigh the interests of both parties and maintain balance insofar as these conflicting interests are concerned.

7. The problem of arrears in the Indian courts is well known. We have 30 million cases pending in the various District Courts and the High Courts. Many attempts are being made to clear these arrears and to ensure that the cases are decided speedily, and there is no unnecessary delay in the disposal of these cases. If the proceedings in a particular case linger until the judgment is delivered and the case is decided after a number of years, the adverse effects of this are well known. No doubt, if we have the dictum 'Justice hurried is justice buried' on the one hand, we cannot gloss over another equally forceful maxim 'Justice delayed is justice denied'. In a situation like this, callousness, indifference and laxity on the part of the plaintiffs in pursuing the suit cannot be tolerated. It cannot be the privilege of the plaintiffs to file a suit and not prosecute it, enter an appearance or keep the matter pending indefinitely."

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8. Similarly, it was held in ***Ishwarlal Mali Rathod v. Gopal, (2021) 12 SCC 612: (2023) 2 SCC (Civ) 625: 2021 SCC OnLine SC 921*** that the grant of repeated adjournments without any justification is not proper. It was observed at page 616:

> **8.** Grant of repeated adjournments in a routine manner and how it ultimately affects the justice delivery system, as such came to be considered by this Court in a catena of decisions, and asking/granting of repeated adjournments have been repeatedly condemned by this Court.
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> **8.1.** In ***Shiv Cotex v. Tirgun Auto Plast (P) Ltd. [Shiv Cotex v. Tirgun Auto Plast (P) Ltd.*, *(2011) 9 SCC 678 : (2011) 4 SCC (Civ) 817]***, it is observed and held in paras 14 to 17 as under : (SCC pp. 682-83)
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> > "*14*. ... Is the court obliged to give adjournment after adjournment merely because the stakes are high in the dispute? Should the court be a silent spectator and leave control of the case to a party to the case who has decided not to take the case forward?
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> > *15*. It is sad, but true, that the litigants seek—and the courts grant—adjournments at the drop of a hat. In the cases where the Judges are a little proactive and refuse to accede to the requests for unnecessary adjournments, the litigants deploy all sorts of methods to protract the litigation. It is not surprising that civil disputes drag on and on. The misplaced sympathy and indulgence by the appellate and revisional courts compound the malady further. The case in hand is a case of such misplaced sympathy. It is high time that courts become sensitive to delays in the justice delivery system and realise that adjournments do dent the efficacy of the judicial process, and if this menace is not controlled adequately, the litigant public may

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> lose faith in the system sooner or later. The courts, particularly trial courts, must ensure that on every date of hearing, effective progress takes place in the suit.
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> *16*. No litigant has a right to abuse the procedure provided in CPC. Adjournments have grown like cancer, corroding the entire body of the justice delivery system....
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> *17*. ... A party to the suit is not at liberty to proceed with the trial at its leisure and pleasure and has no right to determine when the evidence would be let in by it or the matter should be heard. The parties to a suit—whether the plaintiff or the defendant—must cooperate with the court in ensuring the effective work on the date of the hearing for which the matter has been fixed. If they do not, they do so at their own peril."

8.2. Commenting on the delay in the justice delivery system, although in respect of the criminal trial, Krishna Iyer, J. in ***Babu Singh v. State of U.P. [Babu Singh v. State of U.P., (1978) 1 SCC 579: 1978 SCC (Cri) 133]*** has observed in para 4 as under : (SCC p. 581)

> "4. ... Our justice system, even in grave cases, suffers from slow motion syndrome, which is lethal to "fair trial", whatever the ultimate decision. Speedy justice is a component of social justice since the community, as a whole, is concerned in the criminal being condignly and finally punished within a reasonable time and the innocent being absolved from the inordinate ordeal of criminal proceedings."

8.3. In ***Noor Mohammed v. Jethanand [Noor Mohammed v. Jethanand, (2013) 5 SCC 202 : (2013) 2 SCC (Civ) 754]***, using very harsh words and condemning the repeated adjournments sought by the lawyers and granted by the courts, this Court has observed in paras 1, 12, 13, 27 and 28 as under : (SCC pp. 206-07, 209-10 & 215-16)

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"*1.* In a democratic body politic which is governed by a written Constitution and where the Rule of Law is paramount, the judiciary is regarded as a sentinel on the *qui vive* not only to protect the fundamental rights of the citizens but also to see that the democratic values as enshrined in the Constitution are respected and the faith and hope of the people in the constitutional system are not atrophied. The sacrosanctity of the Rule of Law neither recognises a master and a slave nor does it conceive of a ruler and a subject, but, in quintessentiality, encapsulates and sings in the glory of the values of liberty, equality and justice in accordance with the law, requiring the present generation to have the responsibility to sustain them with all fairness for the posterity, ostracising all affectations. To maintain the sacredness of democracy, sacrifice in the continuum by every member of the collective is a categorical imperative. The fundamental conception of democracy can only be preserved as a colossal and priceless treasure where virtue and values of justice rule supreme and intellectual anaemia is kept at bay by constant patience, consistent perseverance, and argus-eyed vigilance. The foundation of justice, apart from other things, rests on the speedy delineation of the lis pending in courts. It would not be an exaggeration to state that it is the primary morality of justice and the ethical fulcrum of the judiciary. Its profundity lies in not allowing anything to cripple it or to do any act which would freeze it or make it suffer from impotence. Delayed delineation of a controversy in a court of law creates a dent in the normative dispensation of justice, and in the ultimate event, the Bench and the Bar gradually lose their reverence, for the sense of divinity and nobility really flows from the institutional serviceability. Therefore, historically, emphasis has been laid on individual institutionalism and collective institutionalism of an adjudicator while administering

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justice. It can be stated without any fear of contradiction that collective collegiality can never be regarded as an alien concept to the speedy dispensation of justice. That is the hallmark of duty, and that is the real measure.

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12. The proceedings in the second appeal before the High Court, if we allow ourselves to say so, epitomise the corrosive effect that adjournments can have on litigation and how a lis can get entangled in the tentacles of an octopus. The philosophy of justice, the role of a lawyer and the court, the obligation of a litigant and all legislative commands, the nobility of the Bench and the Bar, the ability and efficiency of all concerned and ultimately the divinity of law are likely to make way for apathy and indifference when delay of the present nature takes place, for procrastination on the part of anyone destroys the values of life and creates a catastrophic turbulence in the sanctity of law. The virtues of adjudication cannot be allowed to be paralysed by adjournments and non-demonstration of due diligence to deal with the matter. One cannot be oblivious to the necessities of the time. No one can afford to sit in an ivory tower. Neither a Judge nor a lawyer can ignore "the total push and pressure of the cosmos". It is devastating to expect infinite patience. Change of attitude is the warrant and command of the day. We may recall with profit what Justice Cardozo had said:

> "It is true, I think, today in every department of the law that the social value of a rule has become a test of growing power and importance." [Benjamin N. Cardozo, ***The Nature of Judicial Process*** (Cosimo Inc., 2009) 73]

13. It has to be kept in mind that the time of leisure has to be given a decent burial. The sooner it takes place,

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the better it is. It is the obligation of the present generation to march with the times and remind oneself every moment that the rule of law is the centripodal concern, and delay in the delineation and disposal of cases injects an artificial virus and becomes a vitiating element. The unfortunate characteristics of endemic delays have to be avoided at any cost. One has to bear in mind that this is the day, this is the hour, and this is the moment when all soldiers of law fight on the path. One has to remind oneself of the great saying, "Awake, Arise, 'O' Partha".

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27. The anguish expressed in the past, and the role ascribed to the Judges, the lawyers and the litigants, is a matter of perpetual concern, and the same has to be reflected upon every moment. An attitude of indifference can neither be appreciated nor tolerated. Therefore, the serviceability of the institution gains significance. That is the command of the Majesty of Law, and none should make any maladroit effort to create a concavity in the same. Procrastination, whether at the individual or institutional level, is a systemic disorder. Its corrosive effect and impact are like a disorderly state of the physical frame of a man suffering from an incurable and fast progressive malignancy. Delay either by the functionaries of the court or the members of the Bar significantly exhibits indolence, and one can aphoristically say, borrowing a line from Southwell, "creeping snails have the weakest force [***Robert Southwell, "Loss in Delay", in William B. Turnbull (Ed.)***, ***The Poetical Works of the Rev. Robert Southwell*** (John Russell Smith, London 1856), p. 60] ". Slightly more than five decades back, talking about the responsibility of the lawyers, Nizer Louis had put it thus:

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> ‘I consider it a lawyer's task to bring calm and confidence to the distressed client. Almost everyone who comes to a law office is emotionally affected by a problem. It is only a matter of degree and of the client's inner resources to withstand the pressure [Nizer Louis, ***My Life in Court*** (Doubleday & Co. Inc., New York 1961), p. 213] .’

A few lines from the illustrious Justice Frankfurter are fruitful to recapitulate:

> ‘I think a person who throughout his life is nothing but a practising lawyer fulfils a very great and essential function in the life of society. Think of the responsibilities on the one hand, and the satisfaction on the other, to be a lawyer in the true sense [Felix Frankfurter, “Proceedings in Honour of Mr Justice Frankfurter and Distinguished Alumni, Occasional Pamphlet No. 3” (Harvard Law School, Cambridge, 1960), pp. 45] .’

28. In a democratic set-up, intrinsic and embedded faith in the adjudicatory system is of seminal and pivotal concern. Delay gradually declines the citizenry's faith in the system. It is faith and faith alone that keep the system alive. It provides oxygen constantly. Fragmentation of faith has the potential to bring about a state of cataclysm where justice may become a casualty. A litigant expects a reasoned verdict from a temperate Judge but does not intend to, and, rightly so, to guillotine much of the time at the altar of reason. Timely delivery of justice keeps the faith ingrained and establishes sustained stability. Access to speedy justice is regarded as a human right that is deeply rooted in the foundational concept of democracy, and such a right is not only the creation of law but also a natural right. This right can be fully ripened by the requisite commitment of all concerned with the system. It cannot be regarded as a facet of Utopianism because

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such a thought is likely to make the right a mirage, losing the centrality of purpose. Therefore, whoever has a role to play in the justice-dispensation system cannot be allowed to remotely conceive of a casual approach."

8.4. In the aforesaid decision ***[Noor Mohammed v. Jethanand, (2013) 5 SCC 202: (2013) 2 SCC (Civ) 754]***, this Court also considered the role of the advocate in the justice delivery system and considered the earlier decisions in paras 17 to 22 which read as under: (***Noor Mohammed case[Noor Mohammedv. Jethanand, (2013) 5 SCC 202 : (2013) 2 SCC (Civ) 754], SCC pp. 212-14***)

"*17.* In ***Ramon Services (P) Ltd. v. Subhash Kapoor [Ramon Services (P) Ltd. v. Subhash Kapoor, (2001) 1 SCC 118: 2001 SCC (Cri) 3: 2001 SCC (L&S) 152]***, after referring to a passage from ***Mahabir Prasad Singh v. Jacks Aviation (P) Ltd. [Mahabir Prasad Singh v. Jacks Aviation (P) Ltd., (1999) 1 SCC 37]***, the Court cautioned thus : (***Ramon Services case [Ramon Services (P) Ltd. v. Subhash Kapoor, (2001) 1 SCC 118: 2001 SCC (Cri) 3: 2001 SCC (L&S) 152], SCC p. 126***, para 15)

'*15.* ... Nonetheless, we put the profession on notice that in future the advocate would also be answerable for the consequences suffered by the party if the non-appearance was solely on the ground of a strike call. It is unjust and inequitable to cause the party alone to suffer for the self-imposed dereliction of its advocate. We may further add that the litigant who suffers entirely on account of his advocate's non-appearance in court has also the remedy to sue the advocate for damages, but that remedy would remain unaffected by the course adopted in this case. Even so, in situations like this, when the court mulcts the party with costs for the failure of his advocate to appear, we make it clear that the same court has the power to permit the party to realise the

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> costs from the advocate concerned. However, such a direction can be passed only after affording an opportunity to the advocate. If he has any justifiable cause, the court can certainly absolve him from such a liability.'

Be it noted, though the said passage was stated in the context of a strike by the lawyers, yet it has its accent on non-appearance by a counsel in the court.

18. In this context, we may refer to the pronouncement in ***P.D. Khandekar v. Bar Council of Maharashtra [P.D. Khandekar v. Bar Council of Maharashtra, (1984) 2 SCC 556: 1984 SCC (Cri) 335***], wherein the Court observed that : (SCC p. 563, para 9)

> '*9*. ... An advocate stands in a loco parentis towards the litigants, and it therefore follows that the client is entitled to receive disinterested, sincere and honest treatment, especially where the client approaches the advocate for succour in times of need.'

19. In ***S.J. Chaudhary v. State (Delhi Admn.) [S.J. Chaudhary v. State (Delhi Admn.), (1984) 1 SCC 722: 1984 SCC (Cri) 163]***, a three-Judge Bench, while dealing with the role of an advocate in a criminal trial, has observed as follows : (SCC pp. 723-24, para 3)

> "*3*. We are unable to appreciate the difficulty said to be experienced by the petitioner. It is stated that his advocate is finding it difficult to attend court from day to day. It is the duty of every advocate who accepts the brief in a criminal case to attend the trial from day to day. We cannot over-stress the duty of the advocate to attend to the trial from day to day. Having accepted the brief, he will be committing a breach of his professional duty if he so fails to attend."

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20. In ***Mahabir Prasad Singh [Mahabir Prasad Singh v. Jacks Aviation (P) Ltd., (1999) 1 SCC 37]***, the Bench, emphasising the obligation of a lawyer in his duty towards the Court and the duty of the Court to the Bar, has ruled as under : (SCC p. 44, paras 17-18)

> '*17.* ... "A lawyer is under obligation to do nothing that shall detract from the dignity of the court of which he is himself a sworn officer and assistant. He should at all times pay deferential respect to the Judge, and scrupulously observe the decorum of the courtroom." (*Warevelle's Legal Ethics*, p. 182)

18. Of course, it is not a unilateral affair. There is a reciprocal duty for the court also to be courteous to the members of the Bar and to make every endeavour for maintaining and protecting the respect which members of the Bar are entitled to have from their clients as well as from the litigant public. Both the Bench and the Bar are the two inextricable wings of the judicial forum, and therefore, the aforesaid mutual respect is sine qua non for the efficient functioning of the solemn work carried on in courts of law. But that does not mean that any advocate or a group of them can boycott the courts or any particular court and ask the court to desist from discharging judicial functions. At any rate, no advocate can ask the court to avoid a case on the ground that he does not want to appear in that court.'

21. While recapitulating the duties of a lawyer towards the court and society, being a member of the legal profession, this Court in ***O.P. Sharma v. High Court of P&H [O.P. Sharma v. High Court of P&H, (2011) 6 SCC 86 : (2011) 3 SCC (Civ) 218 : (2011) 2 SCC (Cri) 821 : (2011) 2 SCC (L&S) 11***] has observed that : (SCC p. 92, para 17)

> '*17.* The role and status of lawyers at the beginning of sovereign and democratic India is accounted as extremely vital in deciding that the nation's

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> administration was to be governed by the rule of law.'
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> The Bench emphasised the role of eminent lawyers in the framing of the Constitution. The emphasis was also laid on the concept that lawyers are the officers of the court in the administration of justice.
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> 22. In ***R.K. Garg v. State of H.P. [R.K. Garg v. State of H.P., (1981) 3 SCC 166: 1981 SCC (Cri) 663***], Chandrachud, C.J., speaking for the Court pertaining to the relationship between the Bench and the Bar, opined thus: (SCC p. 170, para 9)
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> > '*9*. ... the Bar and the Bench are an integral part of the same mechanism which administers justice to the people. Many members of the Bench are drawn from the Bar, and their past association is a source of inspiration and pride to them. It ought to be a matter of equal pride to the Bar. It is unquestionably true that courtesy breeds courtesy, and just as charity has to begin at home, courtesy must begin with the Judge. A discourteous Judge is like an ill-tuned instrument in the setting of a courtroom. But members of the Bar will do well to remember that such flagrant violations of professional ethics and cultured conduct will only result in the ultimate destruction of a system without which no democracy can survive.' "

9. Today, the judiciary and the justice delivery system are facing the acute problem of delay, which ultimately affects the right of the litigant to access to justice and the speedy trial. Arrears are mounting because of such delay and dilatory tactics, and asking for repeated adjournments by which advocates and mechanically and in a routine manner granted by the courts. It cannot be disputed that due to the delay in access to justice and not getting timely justice, it may shake the trust and confidence of the litigants in the justice delivery system. Many a time, the

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> task of adjournments is used to kill justice. Repeated adjournments break the back of the litigants. The courts are enjoined to perform their duties with the object of strengthening the confidence of the common man in the institution entrusted with the administration of justice. Any effort that weakens the system and shakes the faith of the common man in the justice dispensation has to be discouraged. Therefore, the courts shall not grant adjournments in a routine manner and mechanically, and shall not be a party to the cause for delay in dispensing justice. The courts have to be diligent and take timely action in order to usher in an efficient justice dispensation system and maintain faith in the rule of law.
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> **10.** We are also aware that whenever the trial courts refuse to grant unnecessary adjournments, many times they are accused of being strict, and they may face the displeasure of the Bar. However, the judicial officers shall not worry about that if their conscience is clear, and they, as judicial officers, have to bear in mind his duties to the litigants who are before the courts and who have come for justice and for whom the courts are meant, and all efforts shall be made by the courts to provide timely justice to the litigants.

9. It was laid down by the Hon'ble Supreme Court in ***Vinod Kumar v. State of Punjab, (2015) 3 SCC 220: (2015) 2 SCC (Cri) 226: (2015) 1 SCC (L&S) 712: 2015 SCC OnLine SC 53*** that adjournments in criminal trials have become a malignancy. It was observed at page 226:

> "If one is asked a question, what afflicts the legally requisite criminal trial in its conceptual eventuality in this country the two reasons that may earn the status of phenomenal signification are, first, procrastination of trial

> due to non-availability of witnesses when the trial is in progress and second, unwarranted adjournments sought by the counsel conducting the trial and the unfathomable reasons for acceptation of such prayers for adjournments by the trial courts, despite a statutory command under Section 309 of the Code of Criminal Procedure, 1973 (CrPC) and series of pronouncements by this Court. What was a malady at one time, with the efflux of time, has metamorphosed into malignancy. What was a mere disturbance once has become a disorder, a diseased one, at present."

10. It was held in ***Bablu Kumar v. State of Bihar, (2015) 8 SCC 787: (2015) 3 SCC (Cri) 862: 2015 SCC OnLine SC 632*** that the Court must see that neither the defence nor the prosecution takes unnecessary adjournments. It was observed at page 798:

> "**22** Keeping in view the concept of a fair trial, the obligation of the prosecution, the interest of the community and the duty of the court, it can irrefragably be stated that the court cannot be a silent spectator or a mute observer when it presides over a trial. It is the duty of the court to see that neither the prosecution nor the accused plays truant with the criminal trial nor corrodes the sanctity of the proceeding. They cannot expropriate or hijack the community interest by conducting themselves in such a manner as a consequence of which the trial becomes a farcical one. The law does not countenance a "mock trial". It is a serious concern for society. Every member of the collective has an inherent interest in such a trial. No one can be allowed to create a dent in the same. The court is duty-bound to see that neither the prosecution nor the defence takes unnecessary adjournments and takes the trial under their control. The court is under the legal obligation to see that the witnesses who have been cited by the prosecution are produced by it, or if summons are issued, they are actually served on the

> witnesses. If the court is of the opinion that the material witnesses have not been examined, it should not allow the prosecution to close the evidence. There can be no doubt that the prosecution may not examine all the material witnesses, but that does not necessarily mean that the prosecution can choose not to examine any witness and convey to the court that it does not intend to call the witnesses. The Public Prosecutor who conducts the trial has a statutory duty to perform. He cannot afford to take things in a light manner. The court is also not expected to accept the version of the prosecution as if it were sacred. It has to apply its mind on every occasion. Non-application of mind by the trial court has the potential to lead to the paralysis of the conception of a fair trial."

11. Therefore, no party can be permitted to drag on the litigation by taking frequent adjournments.

12. The printout of the case history filed by the petitioner shows that the case has been dragged for service since 28.02.2024. The petitioner claimed that he could not produce the evidence because of his medical condition, which is not correct as noticed above and the learned Trial Court was justified in refusing to grant the further adjournment in the absence of sufficient cause for the same.

13. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. The jurisdiction vested in the Court under Section 528 of BNSS is extraordinary and is to be exercised to prevent the abuse of the

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process of the Court or to secure the ends of justice. In the present case, the circumstances do not justify the exercise of inherent jurisdiction.

14. No other point was urged.

15. In view of the above, the present petition fails, and it is dismissed.

16. The observations made hereinbefore shall remain confined to the disposal of the petitions and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

28th October, 2026
(Nikita)