

Smt. Anju Pathak vs State Of U.P. And 3 Others on 1 April, 2025

Author: Rajeev Misra

Bench: Rajeev Misra

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:47777

Court No. - 70

Case :- APPLICATION U/S 482 No. - 3045 of 2025

Applicant :- Smt. Anju Pathak

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Akshay Mishra,Zeeshan Mazhar

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

1. Heard Mr. Zeeshan Mazhar, the learned counsel for applicant and the learned A.G.A. for State-opposite party-1.
2. Perused the record.
3. Applicant-Smt. Anju Pathak, who is the first informant, has approached this Court by means of present application under Section 482 Cr.P.C. with the following prayer:-

"It is, therefore, most respectfully prayed this Hon'ble Court be pleased to issue a suitable direction to the Court of Additional Session Judge-I, Jaunpur, to expedite the hearing of Session Trial No. 42 of 2014 (State Vs. Shera and others) under Section

394, 34, 302 and 411 of Indian Penal Code, arising out of Case Crime No. 196 of 2013 under Section 302, 394, 411 of Indian Penal Code and 3/25 Arms Act, Police Station Kotwali, District-Jaunpur,, pending before him and decide the same on day to day hearing basis, within stipulated time as this Hon'ble Court may specify, and also pass any other. and further order, which the Hon'ble Court may deem fit and just in the circumstances and facts of the case."

4. Record shows that in respect of an incident, which is alleged to have occurred on 25/26.09.2013, a prompt FIR dated 26.09.2013 was lodged by first informant-applicant and was registered as Case Crime No. 0196 of 2013, under Sections 302, 394, 411 IPC and Sections 3/25 Arms Act, Police Station-Kotwali, District-Jaunpur. In the aforesaid FIR, three persons namely (1) Sons of Late Anand Kumar Pathak (Sons of Jeth of first informant), (2) Shera and (3) Shahnawaj have been nominated as named accused.

5. After aforementioned FIR was lodged, Investigating Officer proceeded with statutory investigation of concerned case crime number in terms of Chapter-XII Cr.P.C. On the basis of material collected by him, during course of investigation, Investigating Officer came to the conclusion that offence complained of is prima facie established. Consequently, he submitted the charge sheet/police report dated 13.12.2013 in terms of Section 173(2) Cr.P.C. against three persons i.e. (1) Shera (named in the FIR), (2) Narendra Kumar and (3) Bacha Lal Prajapati, two of the accused i.e. Shera and Narendra Kumar were charge sheeted under Sections 302, 394, 411 IPC, whereas one of the accused Bacha Lal Prajapati was charge sheeted under Sections 302, 394, 411 IPC and Sections 3/25 Arms Act.

6. Upon submission of aforementioned police report/charge sheet, cognizance was taken upon same by the Jurisdictional Magistrate. However, as offence complained of is triable exclusively by the Court of Sessions, therefore, the Jurisdictional Magistrate, committed the case to the Court of Sessions. Resultantly, Sessions Trial No. 42 of 2014 (State Vs. Shera and Others), under Sections under Sections 302, 394, 411 IPC, Police Station-Kotwali, District-Jaunpur came to be registered. The concerned Sessions Judge proceeded with trial. He framed charges against charge sheeted accused, vide framing of charge order dated 13.03.2014.

7. Subsequent to above order dated 13.03.2014, the trial procedure commenced. Prosecution in discharge of it's burden to bring home the charges so framed against charge sheeted accused has adduced only two witnesses up to this stage.

8. On the above premise, the learned counsel for applicant submits that the trial of charge sheeted accused commenced in the year, 2014. However, in spite of the fact that a period of more than 10 years has rolled by, the trial of the accused has not yet concluded. The trial is not proceeding at the required pace but to the contrary, at a snail's pace. As per the charge sheet, there are as many as 38 prosecution witnesses nominated therein. In view of the lackadaisical approach of Court below in conducting the trial, there is no possibility of the trial getting concluded in near future. At this juncture, the learned counsel for applicant invited the attention of Court to the order sheet and on basis thereof, he submits that the case has been adjourned repeatedly either on the ground of non

presence of witnesses before Court below or adjournment/stay was prayed on behalf of accused, which has been readily granted by Court below. On the above premise, it is thus urged by the learned counsel for applicant that interest of justice shall be served, in case, a positive direction is issued by this Court to Court below to proceed with aforementioned trial expeditiously without granting any unnecessary adjournment to either of the parties, exemption to the accused and further conclude the trial within a time period fixed by this Court.

8. Per contra, the learned A.G.A. for State-opposite party-1 has opposed the present application. Referring to the observations made by Apex Court in paragraphs 41 and 42 of the Five Judges Bench judgment in High Court Bar Association, Allahabad Vs. State of U.P. and Others, 2024 SCC Online SC 207, the learned A.G.A. submits that no direction for time bound disposal of criminal trial can now be issued by this Court. However, the Apex Court in aforementioned judgment has itself carved out an exception that in case, exceptional circumstance exists, the Constitutional Court can direct for time bound disposal of a criminal case. Referring to the affidavit filed in support of this application, the learned A.G.A. submits that since no exceptional circumstance has emerged on record, therefore, no indulgence be granted by this Court in present application.

9. Having heard the learned counsel for applicant, the learned A.G.A. for State and upon perusal of record, this Court finds that no useful purpose shall be served in keeping this application pending.

10. Accordingly, this application is disposed of finally with a direction to Court below to proceed with aforementioned Sessions Trial expeditiously without granting any unnecessary adjournment to either of the parties, stay/exemption to accused except in exceptional circumstance and to take such measure as are available under the Code (i.e. Cr.P.C.) to secure the presence of the witnesses and further ensure strict compliance of the mandate of law provided in Section 309 Cr.P.C./Section 346 BNSS.

Order Date :- 1.4.2025 Vinay