

Shyam Bahadur Harijan vs State Of U.P. And Another on 31 January, 2025

Author: Rajeev Misra

Bench: Rajeev Misra

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:14843

Court No. - 71

Case :- APPLICATION U/S 482 No. - 1852 of 2025

Applicant :- Shyam Bahadur Harijan

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Om Prakash Vishwakarma

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

1. Heard Mr. Om Prakash Vishwakarma, the learned counsel for applicant and the learned A.G.A. for State.
2. Perused the record.
3. Applicant-Shyam Bahadur Harijan, 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 that this Hon'ble court may kindly be pleased to direct the court below to expedite the S.S.T. No. 195 of 2020 (State Vs. Anmol Tiwari), arising out of case crime no. 159 of 2020 under section 376 I.P.C. and section 3/4 POCSO Act and 3 (2) (v) of SC/ST Act, at Police Station- Khutahan, District-Jaunpur, pending in the Court of learned Additional Sessions Judge/POCSO Act-I, Jaunpur within stipulated period as fixed by the Hon'ble court, and/or pass such or further order which this Hon'ble court may deem fit and proper under the facts and circumstances of the present case."

4. Record shows that in respect of an incident, which is alleged to have occurred on 26.06.2020, a delayed FIR dated 27.06.2020 was lodged by first informant-applicant and was registered as Case Crime No. 0159 of 2020, under Section 376 IPC, Sections 3/4 POCSO Act and Section 3(2)(v) SC/ST Act, Police Station-Khutahan, District-Jaunpur. In the aforesaid FIR, one person namely Anmol Tiwari has been nominated as solitary 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 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 21.07.2020 in terms of Section 173(2) Cr.P.C. against named accused under Section 376 IPC, Sections 3/4 POCSO Act and Section 3(2)(v) SC/ST Act.

6. Upon submission of aforementioned police report/charge sheet, cognizance was taken upon same by the Court concerned. Resultantly, Sessions Trial No. 195 of 2020 (State Vs. Anmol Tiwari) came to be registered. The concerned Sessions Judge proceeded with trial. He framed charges against charge sheeted accused, vide framing of charge order dated 26.05.2022.

7. Subsequent to above order dated 26.05.2022, the trial procedure commenced. Prosecution in discharge of its burden to bring home the charges so framed against charge sheeted accused has adduced only one witness 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, 2022. However, in spite of the fact that a period of more than 2 years has rolled by, the trial of the accused has not yet conducted. 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 20 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 the Apex Court in paragraphs 41 and 42 in 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, 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 :- 31.1.2025 Vinay