

**Shailendra Kumar Srivastava  
v.  
The State of Uttar Pradesh & Anr.**

[Criminal Appeal No. 2914 of 2024]

15 July 2024

**[Vikram Nath\* and Satish Chandra Sharma, JJ.]**

**Issue for Consideration**

Ten persons were arrayed as accused and after investigation, a charge sheet was filed under Sections 147, 148, 149, 307, 302 IPC alleging indiscriminate shooting and/or conspiracy leading to death of two persons and injury of one person. The case was committed to the Court of Sessions against nine accused persons numbered as Sessions Trial No. 17/1995. Subsequently, the case against the proclaimed offender was committed and numbered as Sessions Trial No. 66/2004. During the pendency of trial in 2007, one of the Accused, the 2nd Respondent herein was elected as Member of Legislative Assembly. Two separate applications under Section 321 CrPC were filed by the Prosecutor after getting permission from the Government to withdraw the prosecution against the 2nd Respondent and other Accused persons respectively. The first application was allowed and the other application was dismissed by the trial court. The Accused persons other than 2nd Respondent filed Criminal Revision Petition Nos. 1678 of 2012, 1874 of 2012, and the widow of one of the murdered persons filed Criminal Revision Petition No. 2107 of 2012. The order in the latter case is challenged herein.

The main issue was whether the High Court was right in allowing the adjournment of a batch of criminal revision petitions pending before it for over 12 years after reserving the matter for judgment and calling for trial court records, at the request of the counsel for the accused persons for the sixth time. The court also examined the issue of whether the good public image of an accused named in the charge sheet be the sole reason warranting withdrawal of prosecution in matters of a gruesome crime akin to the double murder.

\* Author

**Digital Supreme Court Reports****Headnotes<sup>†</sup>****Code of Criminal Procedure, 1973 – s.321 – Application under – Guidelines**

**Held:** When the case at hand is a gruesome crime akin to double murder – A good public image of an accused named in the charge sheet – Especially when Accused is an influential person – No reason for withdrawal of prosecution under Section 321 of CrPC. [Para 12]

**Practice and Procedure – Repeated adjournments on request of Accused by High Court after reserving the judgment – Calling for Trial Court records thus halting trial.**

**Held:** The action of the High Court halting trial and not pronouncing the judgment once reserved and placing the matter after 2 years before a different bench caused prolonged delay – It also furthered dilatory tactics employed by Accused to delay their trial and failed to ensure that the justice system set in motion because of political influence – Justice should not be delayed or compromised due to political influence or any other extraneous factors [Para 6.11, 6.12, 13 and 15]

**List of Acts**

The Code of Criminal Procedure, 1973; Indian Penal Code, 1860.

**List of Keywords**

Prolonged delay; Withdrawing prosecution against accused; Repetitive adjournment in criminal matter; Political influence of accused.

**Case Arising From**

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 2914 of 2024

From the Judgment and Order dated 18.07.2023 of the High Court of Judicature at Allahabad in CRLR No. 2107 of 2012

**Appearances for Parties**

Sudhir Naagar, Neeraj Kumar, Ms. Chandrakala Sharma, Naresh Bhola, Ms. Priyanka Gautam, Ms. Kashish Goel, Ms. Sonal Bohra, Ms. Vandna Sachdeva, Hari Singh Rawat, Advs. for the Appellant.

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A. K. Misra, Sr. Adv., Arup Banerjee, Priyanshu Raj, Sanjeev Sharma, R. K. Dey, Rajiv Agnihotri, Rupak Shrivastava, Prakash Sharma., Meghraj Singh, JN Singh, Ratnesh Kumar, Pradeep Kumar Yadav, Santosh Kumar, Jeevan R Patil, Madhavan Srivatsan, Arjav Jain, Shashank Shekhar, Advs. for the Respondents.

**Judgment / Order of the Supreme Court****Judgment****Vikram Nath, J.**

1. Leave granted.
2. The judicial system of our country often finds itself grappling with the pervasive issues of prolonged delay and suspected political influence within the legal proceedings. The present case highlights the alarming trend where cases, particularly those involving influential figures, face significant delays, obstructing the administration of justice. The undue influence wielded by powerful individuals further exacerbates the situation, raising concerns about fairness and impartiality. This underscores the urgent need to address systemic flaws and ensure timely resolution of legal disputes.
3. Under normal circumstances, we could have disposed of this appeal with a request to the High Court to decide the pending revision petitions expeditiously. However, considering the grave and sensitive nature of the issue, notices were issued not only to the respondent-State but also to respondent no. 2 who is the beneficiary of the withdrawal order.
4. The present appeal arises out of the impugned order dated 18.07.2023 passed by the Allahabad High Court in Criminal Revision No. 2107 of 2012 whereby the hearing of a batch of criminal revision petitions was adjourned at the request of the counsel for the accused persons for the sixth time. The criminal revision petitions being heard together before the High Court have been filed by the accused persons as well as the mother of the present appellant, who is the widow of one of the deceased persons, against the order of the Trial Court dated 19.05.2012 whereby the application for withdrawal of prosecution under Section 321, Code of Criminal Procedure, 1973<sup>1</sup> was allowed

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<sup>1</sup> CrPC

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for one of the accused persons, Chhote Singh, but was dismissed with respect to the other nine accused persons.

5. Criminal Revision Nos. 1678 of 2012, 1874 of 2012, and 1900 of 2012 have been filed by the accused persons against dismissal of their application for withdrawal of prosecution under Section 321, CrPC and Criminal Revision No. 2107 of 2012 has been filed by the mother of the present appellant challenging the grant of permission for withdrawal of the prosecution against accused Chhote Singh.
6. The facts leading to the filing of the above criminal revision petitions are as follows:
  - 6.1 First Information Report dated 30.05.1994 was registered by complainant Rajendra Kumar Srivastava, uncle of the present appellant, for offences under Sections 147, 148, 149, 307, 302, Indian Penal code, 1860<sup>2</sup>, against five named accused persons, namely Rudra Pal Singh alias Lalle, Raja Singh, Karan Singh alias Kalle, Chunna Singh, Santavan Singh, and against two unknown persons. It was alleged by the complainant that on the same day at around 12:30 PM, he along with his elder brothers Jagdish Sharan Srivastava and Rajkumar alias Raja Bhaiya, nephew Kuldeep Singh, and two persons from their village, Virendra Singh and Ramkaran Singh, was sitting in the complainant's house and talking when the accused persons, armed with guns, entered through the front gate. One of the accused persons, Rudrapal Singh alias Lalle challenged them and alleged that the victims had been making police complaints against him for kidnapping and selling opium, and therefore they had come to teach the victims a lesson. The accused persons fired indiscriminately owing to which Rajkumar and Jagdish Sharan got injured and fell down, and later succumbed to their injuries. Virendra Singh was also injured. The complainant was also fired at by Chunna Singh and Santavan Singh but got saved because he was laid down on the ground.
  - 6.2 During the investigation, names of accused Chhote Singh and Ganga Singh came up in light of those previously arrayed as unknown persons. Three others, Akhilesh Kumar, Surendrapal

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Singh and Krishna Murari were found to be involved in the conspiracy for the incident by the investigating agency. Therefore, chargesheet was filed by the Investigating Officer against ten accused persons for offences under Sections 147, 148, 149, 307, 120B, 302, IPC and Sections 27, 30, Arms Act, 1959.

- 6.3 Accused Rudrapal Singh alias Lalle was absconding and was declared as proclaimed offender. Thus Sessions Trial No. 17/1995 was committed to the Court of Sessions against the other nine accused persons. Subsequently Sessions Trial No. 66/2004 against Rudrapal Singh alias Lalle was also committed to the Court of Sessions.
- 6.4 Accused Chhote Singh was elected as Member of Legislative Assembly from the ruling party in Uttar Pradesh in the year 2007.
- 6.5 The Governor of Uttar Pradesh, vide a Government Order, Serial No. – 901WC/Seven-Justice-5-2007-361 WC/ 2007, dated 16.04.2008, addressed to the District Magistrate, Jalaun, Orai, granted permission to the Public Prosecutor to submit an application before the Trial Court seeking withdrawal of prosecution of Chhote Singh.
- 6.6 The above Government Order was modified to further grant permission to the Public Prosecutor to file an application seeking withdrawal of the prosecution of other accused persons as well.
- 6.7 Both the applications filed under Section 321, CrPC, seeking withdrawal of prosecution were heard and disposed of together by the Trial Court vide order dated 19.05.2012. The Trial Court allowed the withdrawal of prosecution against accused Chhote Singh observing that the image of accused Chhote Singh is good among the public and he is a respected citizen of the society. The public has shown its trust in him by electing him to the Legislative Assembly. Further it was noted that Chhote Singh had not been named in the FIR and the reasons for the same were not made clear by the complainant. Additionally, since no other serious cases were registered against him, the Trial Court considering all the factors found no reason to allow the prosecution to continue against Chhote Singh. With respect to other accused persons, the application seeking withdrawal of prosecution was simply rejected without providing any reasons.

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- 6.8 The remaining accused persons, whose application under Section 321, CrPC was rejected, filed three separate criminal revision petitions challenging the order of the Trial Court which came to be registered as Criminal Revision No. 1678 of 2012, Criminal Revision No. 1874 of 2012 and Criminal Revision No. 1900 of 2012. A separate criminal revision petition was filed by the mother of the present appellant, widow of deceased Jagdish Sharan Srivastava, challenging the withdrawal of prosecution against accused Chhote Singh being permitted by the Trial Court, and the same was registered as Criminal Revision No. 2107 of 2012.
- 6.9 All the four criminal revisions were tagged to be heard together before the High Court and vide order dated 30.05.2012 it was directed that no coercive action shall be taken against the revisionist – accused persons.
- 6.10 During the long pendency of the criminal revision petitions before the High Court, the Trial Court issued non-bailable warrants against the accused persons on 18.08.2017. One of the accused persons, Chunna Singh, preferred a Transfer Petition seeking transfer of his trial but the same was rejected by the High Court on 20.05.2019 holding that the petition had not been moved with a fair motive and it appeared to be a well thought out tactic to delay the conclusion of the trial. By the same order, the High Court noted that the trial had been lingering on for past 24 years and directed the Trial Court to expedite the trial and decide the same within a period of four months, with a further direction to not grant any adjournment.
- 6.11 On 05.02.2020 all the criminal revision petitions were finally heard together and judgment was reserved and Trial Court record was summoned. The judgment reserved was never pronounced, and the criminal revision petitions were again listed for hearing before a different bench on 14.07.2022. Since the Trial court record was submitted to the High Court the trial remained pending in the meantime.
- 6.12 The criminal revision petitions were listed for hearing before the High Court on 14.07.2022 but the hearing was adjourned on account of illness slip circulated on behalf of the counsel for

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the accused persons. Subsequently the hearing of the criminal revision petitions was adjourned five more times. It was last listed on 18.07.2023 and was again adjourned to be heard on 26.07.2023.

7. It is this order of adjournment dated 18.07.2023 that is challenged before us by the son of deceased Jagdish Sharan Srivastava who is seeking intervention of this Court in the case on the ground that grave injustice has been caused to the appellant and his family as the trial has been pending for almost three decades on account of the prolonged pendency of the criminal revision petitions for twelve years. The accused persons have been seeking adjournments in the criminal revision petitions as a delay tactic to prolong the trial, thus aggravating the suffering of the deceased's family and delaying the process of justice.
8. We have heard the learned counsel for all the parties and have also perused the material produced on record. The learned counsel for the appellant has contended that the entire trial is held up owing to the pendency of the criminal revision petitions and the Trial Court record being retained with the High Court. They have further brought to the notice of this Court that the matter was being listed before the High Court only after applications for listing were filed on behalf of the present appellant and despite the same it was repeatedly adjourned on the request of the Respondents. It is also the appellant's contention that the victim's revision petition was tagged with the revision petitions of the accused persons and thus the same is being used by the accused persons to delay the trial despite their applications lacking any substance. Furthermore, they have contended that the State mechanically granted permission to the Public Prosecutor to withdraw the prosecution against the accused persons. The grant of permission for the withdrawal of prosecution with respect to accused Chhote Singh was also granted by the Trial Court owing to his political standing and for no other cogent reasons. Similarly, other accused persons are also influential people and have succeeded in delaying the trial period for an indefinite period and are continuing to do the same.
9. Learned counsel for Respondent No.1, State of Uttar Pradesh, while admitting that the accused persons have been using several dilatory

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tactics to delay the conclusion of the hearing in the criminal revision petitions, also submitted that the mother of the appellant in one of her applications seeking dismissal of the accused persons' application under Section 321, CrPC had admitted that after examination of all the witnesses and conclusion of the arguments in Sessions Trial No. 17/1995 the matter was fixed for 26.07.2004 but due to stay order of the High Court the Judgment could not be pronounced. The State further submitted that it does not have any role in the adjournments which were sought by the accused persons and that they could not stop the accused persons from exercising one of their rights to seek parity with accused Chhote Singh.

10. On the contrary, the learned counsel for Respondent No.2, Chhote Singh, has contended that it is actually the present appellant who has been seeking adjournments and thereby delaying the proceedings in the criminal revision petitions before the High Court. Since the appellant has not approached this Court with clean hands, it is merely on the ground of suppression of fact that the present appeal deserves to be dismissed.
11. It is apparent that this case presents concerning circumstances wherein politically influential individuals, accused of a double murder in broad daylight, have evaded trial for almost three decades. We also acknowledge that it is evident from the Trial Court's order dated 19.05.2012 that political power has been leveraged to secure the withdrawal of prosecution of accused Chhote Singh. While the other nine accused were put to trial and their applications rejected without a reasoned order, this order being challenged by both, accused persons and the victims, has remained pending before the High Court for twelve years and the resultant stagnation in trial proceedings is deeply troubling. Given the gravity of the situation and the risk of miscarriage of justice, urgent action is warranted.
12. Considering the material on record and the political influence of accused Chhote Singh and the Trial Court's casual approach towards the accusations against the then sitting Member of Legislative Assembly in allowing withdrawal of his prosecution, this court is of the opinion that merely because an accused person is elected to the Legislative Assembly cannot be a testament to their image among the general public. Matters of a gruesome crime akin to the double murder in the present case do not warrant withdrawal of prosecution

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merely on the ground of good public image of an accused named in the charge sheet after thorough investigation. Contrary to the Trial Court's view, such withdrawal cannot be said to be allowed in public interest. This reasoning cannot be accepted especially in cases of involvement of influential people.

13. Additionally, the High Court in repeatedly allowing the adjournment requests has only allowed the accused persons to deploy dilatory tactics to delay their trial and have failed to ensure that the justice system is set in motion and is not halted due to the lamentable specter of political influence.
14. We had sent notice to the accused Chhote Singh, who is Respondent No.2 in the present Appeal, and have heard the case on its merits with regard to the application under Section 321, CrPC which was filed by Respondent No.2 and allowed by the Trial Court. In the light of the discussion made above, we are inclined to set aside the withdrawal of prosecution of accused Chhote Singh as allowed by the Trial Court.
15. Complainant has approached this Court challenging the repetitive adjournments in their criminal revision petitions against withdrawal of Respondent No.2's prosecution, thus we are only deciding with respect to the case of Respondent No.2. Other accused persons are not before us; thus we are not going into the merits of their applications seeking withdrawal of prosecution. However, acknowledging the extensive delay already caused in the case, we are inclined to request the High Court to ensure that justice is not further delayed or compromised- due to political influence or any other extraneous factors.
16. Accordingly, the appeal is allowed, the Criminal Revision No. 2107 of 2012 pending before the High Court of Allahabad is allowed, and order dated 19.05.2012 passed by the Court of Additional Sessions Judge (Temporary Ex Cadre Court-01), at Jalaun, Orai, is set aside only with respect to Respondent No.2 herein.
17. In light of the aforementioned concerns, this Court directs the registry to send a copy of this order to the registry of the Allahabad High Court. Additionally, the parties before the High Court are also at liberty to bring this order to the notice of the High Court in the pending revisions by the accused. Thereafter, the High Court shall,

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considering the observations made by this Court, re-evaluate the remaining cases and decide the other pending criminal revision petitions for the withdrawal of prosecution as prayed by the remaining nine accused persons.

18. Lastly, this Court emphasizes the paramount importance of ensuring progression of the trial without further delay. The High Court shall retain with it only copies of the Trial Court record for its perusal and consideration in disposing of the criminal revision petitions of the accused persons pending before it, and send back the original record to the Trial Court for expeditious conclusion of the criminal trial which has been pending for almost three decades now.
19. Pending application(s), if any, is/are disposed of.

*Result of the case: Appeal allowed*

*<sup>1</sup>Headnotes prepared by: Swathi H. Prasad, Hon. Associate Editor  
(Verified by: Kanu Agrawal, Adv)*