

Criminal Revision
Present:
The Hon'ble Justice Ashim Kumar Roy

Judgment On : 23-03-2010

C.R.R. No. 496 of 2010

Bidyut Kumar Chatterjee
versus
State of West Bengal

POINTS:

Trial ---Delay occurred in commencement of trial due to pendency of revision in High Court---
Whether Prosecution can be blamed for delay. Code of Criminal Procedure, 1973, Section-
167(5), Indian Penal Code, S. 120(B) & 224.

FACTS:

Charge under Sections 120B and 224 of The Indian Penal Code. Petitioner arrested on 15th October, 2008. Petitioner filed application under Section 167(5) Criminal Procedure Code. Same disposed of by this Court by order dated 29th April, 2009, with a direction upon the Chief Judicial Magistrate to dispose of application within 7 days and finally, the Learned Chief Judicial Magistrate by his order dated 19th May, 2009, dismissed the said application. The Petitioner immediately challenged the said order before this Hon'ble High Court in C.R.R. No. 2549 of 2009.

HELD:

The trial in question was commenced on the basis of a FIR recorded on 3rd October, 2008. The Petitioner was arrested on 15th October, 2008 and charge-sheet was submitted on 21st April, 2009. The petitioner filed an application under Section 167 (5) of the Code of Criminal Procedure in connection with the said case and this Hon'ble Court by an order passed in connection with C.R.R. No.1498 of 2009 on 29th April, 2009, directed the learned Court below to dispose of the said application within seven days. The Learned Chief Judicial Magistrate by his order dated 19th May, 2009 dismissed the said application and the Petitioner immediately challenged the said order before this Hon'ble High Court in C.R.R. No. 2549 of 2009. This Court by its Order dated 6th January, 2010, dismissed the said Criminal Revisional Application. Therefore, the prosecution or the Court cannot be blamed for causing any delay in the commencement of the trial.

PARA---3

For Petitioner : Mr. Md. Sofiulla Mondal
For State : Ms. Minoti Gomes

THE COURT:

1. The present petitioner, who has been charge-sheeted under Sections 120B/224 of the Indian Penal Code in connection with C.G.R. Case No. 3443/08, now pending before the Learned Chief Judicial Magistrate, Alipore arising out of Alipore P.S. Case No. 241 dated 03.10.2008, has approached this Court for a direction for immediate commencement of his trial and expeditious conclusion thereof.

2. Heard the learned advocates appearing on behalf of the parties. Perused the materials on record.

3. It appears the trial in question was commenced on the basis of a FIR recorded on 3rd October, 2008. The present petitioner was arrested on 15th October, 2008 and charge-sheet was submitted on 21st April, 2009. In the meantime, the petitioner filed an application under Section 167 (5) of the Code of Criminal Procedure in connection with the said case and this Hon'ble Court by an order passed in connection with C.R.R. No. 1498 of 2009 on 29th April, 2009, directed the learned Court below to dispose of the said application within seven days. Finally, the Learned Chief Judicial Magistrate by his order dated 19th May, 2009 dismissed the said application. The petitioner immediately challenged the said order before this Hon'ble High Court in C.R.R. No. 2549 of 2009. This Court by its order dated 6th January, 2010 dismissed the said criminal revisional application. Therefore, the prosecution or the Court cannot be blamed for causing any delay in the commencement of the trial.

4. Be that as it may, the learned Trial Court is directed to proceed with the matter with utmost expedition and shall make all endeavours to conclude the trial as expeditiously as possible preferably within one year from the communication of this order. The Learned Trial Court is further directed to proceed with the matter strictly in terms of Section 309 of the Code of Criminal Procedure on day to day basis and shall not grant any adjournment to either of the parties unless the Court finds the same is necessary for ends of justice.

Criminal Section is directed to deliver urgent Photostat certified copy of this Judgment to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)