

Criminal Revision

Present: **The Hon'ble Justice Ashim Kumar Roy**

C.R.R. No. 897 of 2010

Judgment On: 07-04-2010.

Shyamalendu Roy
versus
The State of West Bengal

POINTS:

SPEEDY TRIAL: Right to speedy trial whether a fundamental right- Court concerned is vacant- Whether Court can direct for expeditious disposal-Constitution of India, Art 21

FACTS:

This trial is an outcome of the FIR relating to offences punishable under Sections 394/397 of the Indian Penal Code and under Sections 25 (1B)(a)/27 of the Arms Act. The charge-sheet in connection with this case was submitted on July 11, 2007 and charge was framed on December 19, 2007. Thereafter, the trial commenced and by now, examination of all the prosecution witnesses as well as the accused under Section 313 of the Code of Criminal Procedure is already over, but the Trial Court has become vacant from October, 2009. In this connection, a report has been called for from the Learned Registrar (Judicial Service), High Court, Calcutta, and it appears that the Court concerned is still lying vacant.

HELD:

In any event right to speedy trial of any accused is his fundamental right guaranteed under Article 21 of the Constitution. This is not one of such case where the trial has been inordinately delayed.

Still it is directed, if not the vacancy in the trial court is filled up within 2 months, then in that case, the trial in question be transferred to the Court of the Chief Judge, City Sessions Court, Calcutta and the Learned Chief Judge Shall have the liberty to either hold the trial herself or to transfer the case to any other competent Court for disposal. The Transferee Court is directed to conclude the trial as expeditiously as possible preferably within six months from the date of receipt of the records.

Para-4

For Petitioner : Mr. Kallol Basu
Mr. Arijeet Pyne

For State : Mr. Sobhendu Sekhar Roy

THE COURT:

1. Invoking Section 407 of the Code of Criminal Procedure, the petitioner has sought for transfer of their trial relating to offences punishable under Sections 394/397 of the Indian Penal Code, the trial they have been facing from custody, on the ground that the Trial Court is lying vacant since October, 2009.
2. Heard Mr. Kallol Basu, the Learned Counsel appearing on behalf of the petitioner as well as Mr. Sobhendu Sekhar Roy, the Learned Counsel appearing on behalf of the State. Perused the materials on record.
3. This trial is an outcome of the FIR relating to offences punishable under Sections 394/397 of the Indian Penal Code and under Sections 25 (1B)(a)/27 of the Arms Act. The charge-sheet in connection with this case was submitted on July 11, 2007 and charge was framed on December 19, 2007. Thereafter, the trial commenced and by now, examination of all the prosecution witnesses as well as the accused under Section 313 of the Code of Criminal Procedure is already over, but the

Trial Court has become vacant from October, 2009. In this connection, a report has been called for from the Learned Registrar (Judicial Service), High Court, Calcutta, and it appears that the Court concerned is still lying vacant.

4. In any event right to speedy trial of any accused is his fundamental right guaranteed under Article 21 of the Constitution. This is not one of such case where the trial has been inordinately delayed. Still it is directed, if not the vacancy in the trial court is filled up within 2 months, then in that case, the trial in question be transferred to the Court of the Chief Judge, City Sessions Court, Calcutta and the Learned Chief Judge shall have the liberty to either hold the trial herself or to transfer the case to any other competent Court for disposal. The transferee Court is directed to conclude the trial as expeditiously as possible preferably within six months from the date of receipt of the records.

5. This criminal revision is thus disposed of.

6. 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.)