

CRIMINAL REVISION

Present :-The Hon'ble Justice Ashim Kumar Roy

Judgment On : 21-05-2010.

C.R.R. No. 1367 of 2010

Habibur Rahaman

versus

The State of West Bengal

Points :- Delay – Murder case not committed to Sessions Court for 15 years – One of the accused is absconding – Direction for expeditious conclusion of trial – Code of Criminal Procedure, 1973 , S -299 & 309.

FACTS:-

A First Information Report, being Harischandrapur Police Station Case No.68 of 1995 was registered as far back as on July 18, 1995, and in connection with the said case, charge-sheet was submitted for the offences under Sections 147/148/149/447/324/302 of the Indian Penal Code, on April 06, 1996 against the 28 accused persons. One of the accused, is still absconding and no trial has been commenced during last 15 years in this application petitioner prayed for expeditious conclusion of trial.

HELD :-

A trial of a murder case has been staggered for last 15 years. In such circumstances, the Learned Chief Judicial Magistrate, Malda before whom the aforesaid case is pending is directed, if not the case is yet been committed to the Court of Sessions, to invoke Section 299 of the Code of Criminal and then to proceed in accordance with law for commencement of the trial of the other accused persons, who are available. It is further directed that within a month from the date of receipt of the records by the Sessions Court after, the Sessions Court must take up the matter for consideration as to the question of framing of charge and if finally charge is framed, then in that case the trial must be concluded as expeditiously as possible preferably within a year from the date of framing of charge. The Learned Trial Court is directed to proceed with the trial strictly in terms of the provisions of Section 309 of the Code of Criminal Procedure.

Para 4.

For Petitioner : Mrs. Sujata Das

For State : Mrs. Krishna Ghosh

THE COURT. 1. By moving the instant criminal revision the defacto-complainant of a case relating to the offences punishable under Sections 147/148/149/447/324/302 of the Indian Penal Code has approached this Court for a direction for conclusion of the trial relating to the said case.

2. Heard Mr. Sujata Das, Learned Counsel, appearing on behalf of the petitioner as well as the Learned Junior Government Advocate, appearing on behalf of the State.

3. Mrs. Das submitted before this Court, relating to the offences punishable under Sections 147/148/149/447/324/302 of the Indian Penal Code, a First Information Report, being Harischandrapur Police Station Case No. 68 of 1995 was registered as far back as on July 18, 1995, and in connection with the said case, charge-sheet was submitted for the selfsame offences on April 06, 1996 against the 28 accused persons. She further submitted that till date the case has not been committed to the Court of Sessions, because one of the accused Sahid, out of 20 charge-sheeted accuseds, is still absconding and no trial has been commenced during last 15 years. The Learned Junior Government Advocate appearing on behalf of the State did not oppose such application and submitted that the State has no objection if any such direction is passed.

4. Having heard the Learned Counsel appearing on behalf of the parties, I find that this is a case where the FIR was registered in July 1995 and ended in charge-sheet in April, 1996. I also find from the materials on record that till date, the case has not been committed since one of the accused Sahid is still absconding. Therefore, a trial of a murder case has been staggered for last 15 years. In such circumstances, the Learned Chief Judicial Magistrate, Malda before whom the aforesaid case is pending is directed, if not the case is yet been committed to the Court of Sessions, to invoke Section 299 of the Code of Criminal Procedure and then to proceed in accordance with law for commencement of the trial of the other accused persons, who are available.

It is further directed that within a month from the date of receipt of the records by the Sessions Court after commitment, the Sessions Court must take up the matter for consideration as to the question of framing of charge and if finally charge is framed, then in that case the trial must be concluded as expeditiously as possible preferably within a year from the date of framing of charge. The Learned Trial Court is directed to proceed with the trial strictly in terms of the provisions of Section 309 of the Code of Criminal Procedure. This criminal revision is thus disposed of. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(**Ashim Kumar Roy, J.**)