

CRIMINAL REVISION

Judgement On: June 14, 2010.

**C.R. R. No. 10 of 2010**

Present : The Hon'ble Mr. Justice *Prasenjit Mandal*

**Jethon Dosad.**

**Versus**

**State of West Bengal.**

**POINTS**

Delay – Criminal case could not be proceeded – Petitioner to retire from service shortly – Some of the accused persons were absconding – Directions upon the magistrate to issue proclamation and attachment – Indian Penal Code 1860, Sections 420/468/471/34/120(B), Code Of Criminal Procedure 1973, S 401 & 482.

**FACTS**

The petitioner along with some other accused persons were charge-sheeted for the alleged offence punishable under Sections 420/468/471/34/120(B) of the I.P.C. and on the basis of such charge-sheet the concerned Magistrate took cognizance of the offence on 09.09.2003. The case could not be proceeded because some of the accused persons were absconding. The petitioner a service holder is going to retire from service soon. At that stage, he filed one revisional application previously before this Hon'ble Court under C.R.R. No.2684 of 2005 praying for early disposal of the said case. Accordingly, this Court earlier passed an order dated 19.09.2005 directing the learned Magistrate to dispose of the criminal case by framing charge after considering the submissions of both the sides at an early date and to dispose of the same within a period of three months But since then the case is still pending because some of the accused persons are still absconding and the case is waiting for execution of warrant of arrest.

**HELD**

If all the accused persons do not surrender or arrested in the meantime the concerned Magistrate shall issue proclamation and attachment at once against the absconding accused persons with copies to the S. P. for taking

appropriate steps for execution within a period of one month from the date of publication of the proclamation and attachment .

Para 2

If the absconding accused persons do not surrender/are not arrested in the meantime, the concerned Magistrate shall split up the case and he shall proceed with the trial of the case with regard to the accused persons on bail to ensure that the trial be completed within three months from the date of filing of the case against the absconding accused persons .

Para 2

For the petitioner: Mrs. Baishali Ghoshal,  
Mr. B. Ghoshal.

For the State: Mr. Swapan Kumar Mullick

***PRASENJIT MANDAL, J.:***

**THE COURT** 1)The petitioner has filed this application under Section 401 read with Section 482 of the Code of Criminal Procedure, 1973 praying for quashing the proceedings bearing Serampore P.S. FIR 298 and chargesheet no.225 dated 03.09.2003 under Sections 420/409/468/471/34/120(B) of the I.P.C. against the State of West Bengal. The petitioner along with some other accused persons were chargesheeted for the alleged offence punishable under Sections 420/468/471/34/120(B) of the I.P.C. and on the basis of such chargesheet the concerned Magistrate took cognizance of the offence on 09.09.2003. The case could not be proceeded because some of the accused persons were absconding. The petitioner is a service holder and he is going to retire from service soon. At that stage, he filed one revisional application previously before this Hon'ble Court under C.R.R. No.2684 of 2005 praying for early disposal of the said case. Accordingly, the Hon'ble Mr. Justice A. K. Basu passed an order dated 19.09.2005 directing the learned Magistrate to dispose of the criminal case by framing charge after considering the submissions of both the sides at an early date and to dispose of the same within a period of three months from the date of communication of this order. But it is surprising to note that since then the case is still pending. The reasons for pending are not for the facts that the concerned trial court was making delay in the matter of disposal but for the fact that some of the accused persons are still absconding and the case is waiting for execution of warrant of arrest. This being the position, the learned Magistrate was not in a position to dispose of the same.

2)However, it is submitted that the accused / petitioner will face difficulty in getting his retiral benefits from this service. Since, there was an earlier direction by this Court in order to give due respect to the said order, the present revisional application is disposed of by passing the following orders:-

*1. That if all the accused persons do not surrender or arrested in the meantime the concerned Magistrate shall issue proclamation and attachment at once against the absconding accused persons with copies to the S. P. for taking appropriate steps for execution within a period of one month from the date of publication of the proclamation and attachment and that*

*2. If the absconding accused persons do not surrender/are not arrested in the meantime, the concerned Magistrate shall split up the case and he shall proceed with the trial of the case with regard to the accused persons on bail to ensure that the trial be completed within three months from the date of filing of the case against the absconding accused persons.*

The learned Magistrate shall issue proclamation and attachment within seven days from the date of communication of this order and thereafter he shall proceed in the light of the observations made above and in accordance with law. The application is disposed of in the manner indicated above.

3)Considering the circumstances, there will be no order as to costs.

4)Urgent xerox certified copy of this order, if applied for, be supplied to the learned Advocates for the parties on their usual undertaking.

**(Prasenjit Mandal, J.)**