

MCRC.14633/2016

Ramroop & anr.
V.
State of M.P. & anr.

31/01/2017

Shri Pavan Kumar Vijaywargiya, counsel for the applicants.

Shri Girdhari Singh Chauhan, Public Prosecutor for the respondent no.1/State.

This petition under Section 482 of CrPC has been filed for quashing the FIR in Crime No.33/2012 registered by Police Station-Manpur, District-Sheopur for offence punishable under Section 304-A of IPC as well as all consequential proceedings.

The prosecution story in short is that Bharat Jatt, applicant no.2 had asked the deceased Hansraj to climb to the main electric pole and to connect the electric wire with the main electric line of 11,000 Watt. Hansraj was not interested in doing the same but as he was insisted by the applicants, therefore, he was forced to climb on the main electric pole and after he connected the one electric wire and while he was connecting an other electric wire, the electricity supply was restored in the main electric line as a result of which the deceased Hansraj suffered electric shock. He was brought down from the pole and he was taken to the hospital and, subsequently, he expired.

It is submitted by the counsel for the applicant that more than two years have passed but the prosecution witnesses are not turning up. He further submitted that even if the entire allegations are accepted, then no offence under Section 304-A of IPC would be made out.

MCRC.14633/2016

Per contra, the counsel for the State submitted that it is apparent from the statements of the witnesses that the applicants forced the deceased to connect the electric wires with the main electric line of 11,000 Watts and because of restoration of electric supply, he suffered the electric shock and died subsequently. Thus, the applicants committed rash and negligent act by forcing the deceased to climb up the electric pole and to connect the electric wires with the electricity line of 11,000 Watts. *Prima facie*, there is sufficient material to prosecute the applicants for offence punishable under Section 304-A of IPC.

The first contention of the applicants is that although more than two years have passed but there is no substantial progress in the trial. The prosecution witnesses are not turning up and, therefore, on the ground of delay, the further proceedings pending before the Trial Court be quashed. It was further submitted that even otherwise the allegations as made against the applicants do not make out a *prima facie* case for their prosecution under Section 304-A of IPC. It is well established principle of law that speedy trial is the fundamental right of the accused.

There is a substance in the contention made by the applicants that no substantive progress have taken place in the trial for the last two years.

By the order-sheet dated 18/11/2015, charge under Section 304-A of IPC was framed against the applicants. Thereafter, the statements of the witnesses

MCRC.14633/2016

could not be recorded on 08/01/2016 because the notices were not served. However, for the reasons best known to the applicants, they have not chosen to file any order-sheet of the Trial Court to demonstrate that what transpired after 08/01/2016.

Thus, in the light of the documents which have been placed on record, it is not possible for this Court to give any observation that whether there is delay in the trial or not. However, speedy trial is a fundamental right of an accused, therefore, subject to the pendency of the old cases on the board of the Trial Court, it is observed that every endeavor should be made by the Trial court to dispose off the trial as soon as possible.

So far as the contention of the applicants that there is no *prima facie* case available on record to prosecute the applicants for offences punishable under Section 304-A of IPC is concerned, suffice it to say that there is sufficient material available on record to show that in fact it is the applicants who had compelled the deceased to climb over the main electrical pole to connect the electric wires with the main electric line of 11,000 Watts.

Thus, at this stage, it cannot be said that no offence punishable under Section 304-A of IPC is made out against the applicants.

The counsel for the applicants further relies upon the report of the Additional Superintendent of Police, Sheopur dated 12/10/2012 to submit that in fact the Additional S.P. had come to a conclusion that as no written or oral report was made to the police station by

MCRC.14633/2016

the complainant party, therefore, it appears that the involvement of the applicants is suspicious. However, the counsel for the applicants fairly conceded that this report is not the part of the charge-sheet.

It is for the Trial Court to consider the evidence which has come on record as well as the defences which may be taken by the applicants at the trial. This Court, in exercise of powers under Section 482 of CrPC, cannot rely upon the report given by the Additional S.P. to hold that the charge-sheet filed against the applicants is vague. It is for the Trial Court to consider the report of the Additional S.P., if it is relied upon by the applicants.

Under these circumstances, this Court is of the view that the criminal proceedings pending against the applicants cannot be quashed.

It is made clear that any observation made in the present application has been made for the purposes of deciding this petition under Section 482 of CrPC. The Trial court shall not get prejudiced by any of the observation made by this Court while deciding the trial as it has to be decided on the basis of the evidence which may ultimately come on record.

Accordingly, this petition fails and is hereby **dismissed.**

(G.S.Ahluwalia)
Judge