



2026:AHC:181508

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 32089 of 2026

Vishwa Nath Yadav

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Rajendra Jaiswal, Vishal Jaiswal
Counsel for Opposite Party(s)	:	G.A.

Court No. - 79

HON'BLE SAURABH SRIVASTAVA, J.

1. Heard Sri Rajendra Jaiswal, learned counsel for the applicant and learned AGA for the State.

2. By way of present application, applicant made a prayer to quash the summoning/cognizance order dated 01.02.2010 and entire proceedings of Case No.3303029 of 2012 (State Vs. Yogesh Dixit and others), arising out of Case Crime No.378 of 2008, under Section 332, 353, 504 IPC, P.S. Swaroop Nagar, District Kanpur Nagar, pending in the court of learned Chief Judicial Magistrate, Kanpur Nagar.

3. Learned counsel for applicant submitted that he is challenging the entire proceeding of the said case along with impugned summoning order on the sole ground that present case is pending for last about 15 years although FIR of the present case was lodged in the year 2008 and charge-sheet was also submitted in the year 2008 and cognizance was taken in the year 2010 but till today, trial of the same is pending at the stage of producing evidence. On the strength of the said facts, learned counsel for applicant submitted that right of speedy trial is a fundamental right of an accused as well as of complainant guaranteed under Article 21 of the Constitution of India and for last about 18 years, applicant is facing agony of criminal trial without any fault and proceeding of the present matter is pending for last about two decades. Learned counsel for applicant next submitted that according to Article 21 of the Constitution of India, no person shall be deprived of his life or personal liberty except according to procedure established by law and such procedure should be reasonable, fair and just and inordinate delay of 18 years in completion of trial cannot be said to be reasonable, fair and just. Learned counsel for applicant further contended that right of speedy trial is, therefore, a fundamental right which has been infringed in the present case.

4. In support of his submissions, learned counsel for applicant placed reliance on the judgment passed by Hon'ble the Apex Court in the case of **Vakil Prasad Singh Vs. State of Bihar [(2009) 3 SCC 355]** and judgements passed by this Court in the cases of **Mahendra Singh and others Vs. State of U.P. and another [2020 (9) ADJ 15]**, **Mahipal and another Vs. State of U.P. [2020 (9) ADJ 16]** and **Madan Mohan Saxena Vs. State of U.P. and another [(2023) 2 ILRA 1131]**.

5. Apart from above, learned counsel for applicant apprised the Court that applicant was retired from the post of Gardener in Nagar Palika in the year 2020 and due to pendency of present criminal proceedings, retiral dues has not been extended in his favour by which, he is also facing financial crisis.

6. Per contra, learned AGA for the State vehemently opposed the prayer sought through the instant application but did not dispute the fact that applicant is facing agony of criminal trial for last about 18 years due to which, retiral dues has not been extended in his favour.

7. After having the rival contentions raised by learned counsel for parties and perusal of entire material available on record, the Court notes that the instant application has been pressed on the sole ground that applicant is facing agony of criminal trial for last about 18 years i.e. since 2008 and till today, proceeding could not be concluded despite of the fact that applicant is regularly attending the court either in person or through his counsel, therefore, from the record it reflects that delay in trial cannot be attributed to the applicant.

8. The right of speedy trial is a fundamental right enshrined under Article 21 of the Constitution of India. The Apex Court in the case of **Hussainara Khatoon and others Vs. Home Secretary State of Bihar AIR 1979 SC 1360** has observed that speedy trial is an integral part of fundamental right to life and liberty and observed as:-

"5.No procedure which does not ensure a reasonably quick trial can be regarded as 'reasonable, fair or just' and it would fall foul of Article 21. There can, therefore, be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21."

9. In the case of **Hussainara Khatoon (supra)**, Hon'ble the Apex Court very clearly observed that violation of right of speedy trial is the violation of fundamental right guaranteed under Article 21 of the Constitution of India. The exposition of Article 21 of the Constitution of India as noted in the case

of **Hussainara Khatoon (supra)**, was exhaustively considered by the Constitution Bench of the Apex Court in the case of **Abdul Rehman Antulay Vs. R.S. Naik (1992) 1 SCC 225**.

10. The Constitution Bench in case of Abdul **Rehman Antulay (supra)** observed that although each and every delay does not necessarily prejudiced the accused but inordinate long delay may be taken as presumptive proof of prejudice and prosecution should not be allowed to become a persecution and if court arrived at the conclusion that right of speedy trial of the accused has been infringed then proceeding pending against him shall be quashed.

11. The issue has again came up before seven judges Constitution Bench of the Apex Court in the case of **P. Ramachandra Rao Vs. State of Karnataka (2002) 4 SCC 578**. The seven judges Bench of the Apex Court in the case of **P. Ramachandra Rao (supra)** approved the law laid down by the Constitution Bench in case of **Abdul Rehman Antulay (supra)** and stated that guidelines laid down in **Abdul Rehman Antulay (supra)** are not exhaustive but only illustrative and their applicability would taken upon facts of each case. The seven judges Constitution Bench in the case of **P. Ramachandra Rao (supra)** observed that in appropriate cases jurisdiction of the High Court under Section 482 Cr.P.C. and Article 226 and 227 of the Constitution of India can be invoked seeking appropriate relief or suitable direction and observed as:-

"28. It must be left to the judicious discretion of the court seized of an individual case to find out from the totality of circumstances of a given case if the quantum of time consumed upto a given point of time amounted to violation of Article 21, and if so, then to terminate the particular proceedings, and if not, then to proceed ahead. The test is whether the proceedings or trial has remained pending for such a length of time that the inordinate delay can legitimately be called oppressive and unwarranted, as suggested in A.R. Antulay. In Kartar Singh's case the Constitution Bench while recognising the principle that the denial of an accused's right of speedy trial may result in a decision to dismiss the indictment or in reversing of a conviction."

12. Therefore, from the dictum of the Apex Court in the case of **Hussainara Khatoon (supra)**, **Abdul Rehman Antulay (supra)** and **P. Ramachandra Rao (supra)**, it is evident that right of speedy trial is a fundamental right and its violation causes prejudice even to the accused person.

13. The Apex Court in the case of **Vakil Prasad Singh Vs. State of Bihar (2009) 3 SCC 355** (relied upon by the applicant) after discussing the earlier

judgments of the Apex Court including the judgments of **Hussainara Khatoon (supra)**, **Abdul Rehman Antulay (supra)** and **P. Ramachandra Rao (supra)** observed that if the Court comes to the conclusion that right to speedy trial of the accused has been infringed, the charges or the conviction as the case may be, may be quashed unless the Court feels that having regard to the nature of offence and other relevant circumstances quashing of the proceedings may not be in the interest of justice.

14. In the case of **Pankaj Kumar Vs. State of Maharashtra and another (2008) 16 SCC 117**, the Apex Court observed that the prosecution has failed to show any exceptional circumstance, which could possibly be taken into consideration for condoning the prolongation of the trial and on the basis of inordinate delay of over eight years quashed the proceedings pending against the accused after observing that his constitutional right to speedy trial has been denied.

15. In the case in hand, from perusal of the record it appears that the inordinate delay in completion of the trial cannot be attributed to the accused/applicant as order-sheet suggests that he is regularly attending the court either in person or through his counsel and trial of the present case relates to Section 332, 353, 504 IPC, which cannot be said to be a heinous crime and trial of the same is pending since for last about 18 years and prosecution failed to provide any exceptional circumstance to condone such inordinate delay. Therefore, unexplained inordinate delay of 18 years should be termed as oppressive and unwarranted. Therefore, under the facts and circumstances of the case, this Court is of the view that fundamental right to speedy trial of applicant has been violated.

16. In view of the aforementioned facts and circumstances, this Court is of the view that further continuance of the criminal proceedings pending against the applicant is unwarranted, therefore, to secure the ends of justice, summoning/cognizance order dated 01.02.2010 and entire proceedings of Case No.3303029 of 2012 (State Vs. Yogesh Dixit and others), arising out of Case Crime No.378 of 2008, under Section 332, 353, 504 IPC, P.S. Swaroop Nagar, District Kanpur Nagar, pending in the court of learned Chief Judicial Magistrate, Kanpur Nagar, are hereby quashed.

17. Accordingly, the instant application stands **allowed**.

August 31, 2026
Vivek Kr.

(Saurabh Srivastava,J.)