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DHARAM SINGH VS. STATE OF HARYANA AND OTHERS

Present:- None for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure with a prayer to transfer the investigation in case FIR No.0464 dated 20.09.2016 under Sections 306 and 34 IPC registered at Police Station Safidon (Annexure P-1) to the Central Bureau Investigation Agency, New Delhi or any other independent investigating agency.

During the course of arguments, learned State counsel submits that a cancellation report has been prepared in the present case on 15.12.2017, however, the said cancellation report has not been presented before the Court of law. It is shocking to note that the cancellation report is pending before the Superintendent of Police, Jind for the last seven years.

Even this Court has noticed that in several cases the cancellation reports in the State of Haryana remained pending for consideration by the concerned Superintendent of Police of the District for several years and due to this, the rights of the complainant as well as accused are seriously prejudiced. This not only weakens the case of the prosecution but even the final disposal of a criminal trial gets delayed without any justification.

Still further, the Hon'ble Supreme Court in the matter of ***Pankaj Kumar Vs. State of Maharashtra and others (2008) 16 Supreme Court Cases, 117*** emphasized the need for speedy investigation and trials as both are mandated by law and spirit of the provisions of the Code of Criminal Procedure/BNSS and the constitutional protection enshrined in Article 21 of the Constitution of India. The Hon'ble Supreme Court has clarified that the speedy trial as well as speedy investigation are an integral and essential part of the fundamental right to life and liberty enshrined in Article 21 of the Constitution of India.

The Hon'ble Supreme Court has held in the matter of ***Dilawar Vs. State of Haryana and another (2018) 16 Supreme court Cases 521*** as follows:-

“6. We have come across number of cases where investigations remain pending for unduly long time which is not conducive to administration of criminal justice. There is, thus, clear need for timelines for completing investigation and for having in-house oversight mechanism wherein accountability for adhering to laid down timelines can be fixed at a different levels in the hierarchy.

7. It is not necessary to refer to all the decisions of this Court articulating the mandate of the Constitution that there is implicit right under Article 21 for speedy trial which in turn encompasses speedy investigation, inquiry, appeal, revision and retrial. To determine whether undue delay has occurred, one must have regard to nature of offence, number of accused and witnesses, workload of

the court and the investigating agency, systemic delays. Inordinate delay may be taken as presumptive proof of prejudice particularly when accused is in custody so that prosecution does not become persecution. Court has to balance and weigh several relevant factors. Though it is neither advisable nor feasible to prescribe any mandatory outer time limit and the court may only examine effect of delay in every individual case on the anvil of Article 21 of the Constitution, there is certainly a need for in-house mechanism to ensure that there is no undue delay in completing investigation. This obligation flows from the law laid down by this Court inter-alia in Maneka Gandhi versus Union of India, (1978) 1 SCC 248, Hussainara Khatoon (I) versus State of Bihar (1980) 1 SCC 81, Abdul Rehman Antulay versus R.S. Nayak, (1992) 1 SCC 225 and P. Ramachandra Rao versus State of Karnataka (2002) 4 SCC 578”.

The Superintendent of Police, Jind, is directed to file his personal affidavit mentioning (i) the date of receipt of each cancellation report from all police stations of District Jind by the Office of Superintendent of Police, Jind; (ii) date of approval of such cancellation report by the S.P. Office and (iii) the date of presentation of each cancellation report before the competent Court of law, in the last three years.

Adjourned to 20.09.2024.

In case the affidavit is not filed on or before the next date of hearing, the concerned Superintendent of Police shall personally remain present in the Court, on the next date of hearing.

CRM-M-47511-2017

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A copy of this order be handed over to the learned State counsel under the signatures of the Bench Secretary of this Court for informing the concerned.

27.08.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE