



Citation : CDJ 2018 SC 1403

Court : Supreme Court of India

Case No : Writ Petitions (Civil) No. 749 of 2018

Judges : THE HONOURABLE MR. JUSTICE MADAN B. LOKUR & THE HONOURABLE MR. JUSTICE DEEPAK GUPTA

Parties : In Re: Speedy Trial of Undertrial Prisoners

Appearing Advocates : For the Petitioners: Gaurav Agrawal, Advocate, Amicus. For the Respondent: Aman Lekhi, ASG, R. Bala, Suhasini Sen, Aarti Sharma, Shuvodeep Roy, Somnath Banerjee, Guntur Prabhakar, Prerna Singh, M. Shoeb Alam, Ujjwal Singh, Mojahid Karim Khan, Hemantika Wahi, AOR, Jesal Wahi, Puja Singh, Vishakha, Sanjay Kr. Visen, Shekhar Raj Sharma, H.P. Abhinav Mukherji, Divya Prakash Pandey, Ambar Sachdeva, Rahul Mishra, Tapesk Kumar Singh, Aditya Pratap Singh, M. Shoeb Alam, Ujjwal Singh, Mojahid Karim Khan, Nishe Rajen Shanker, Anu K. Joy, Alim Anvar, Regan S. Bel, G. Prakash, M.L. Jishnu, Priyanka Prakash, Beena Prakash, V.N. Raghupathy, Lagnesh Mishra, Leishangthem Roshmani, Maibam Babina, Anupama Ngangom, Ranjan Mukherjee, K. Enatoli Sema, AOR, Amit Kumar Singh, Aruna Mathur, Avneesh Arputham, Anuradha Arputham, Geetanjali, M/s. Arputham Aruna & Co., S. Udaya Kumar Sagar, AOR, Mrityunjai Singh, Shuvodeep Roy, Rituraj Biswas, Garvesh Kabra, Rajesh K. Singh, Amit Singh, Vanshuja Shukla, Rachana Srivastva, Monika, K.V. Jagdishvaran, G. Indira, AOR, Mrinal K. Mondal, V.G. Pragasam, S. Prabu Ramasubramanian, S. Manuraj, Advocates.

Date of Judgment : 22-10-2018

Head Note :

Criminal Procedure Code - Section 436A -

Judgment :

We have heard the learned Amicus as well as the learned Additional Solicitor General.

With regard to Item No.(i), this reads as follows:-

(i) There is an Observation Home where juveniles in conflict with law, pending enquiry, are housed which covers five districts. The proceedings in respect of juveniles are held in different courts in the said five districts. The juveniles are required to be transported to appear in the said proceedings which require escort police. On non-availability thereof, proceedings are adjourned. This results in delay in conclusion of enquiry proceedings much beyond statutory time-line under Section 14(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015. There is also no video conferencing facility by which the juveniles facing enquiry can participate obviating the need for travelling long distances. Either a Special Court is required to be set up to deal with all enquiries in respect of juveniles kept in the said home at a nearest place or video conferencing facility is required to be provided forthwith.”

The learned ASG should ascertain and inform us on the next date of hearing whether Observation Homes and Juvenile Justice Boards are equipped with video conferencing facilities. A state-wise chart should be prepared in this regard so that necessary directions can be given in cases where there is a considerable distance between the Observation Home and Juvenile Justice Board. The States are directed to co-operate and assist the Union of India in providing this information.

With regard to Item No.(iv) & (v), this reads as follows:-

(iv) In spite of directions of this Court, we found instances of witnesses not being examined by the Court on the ground of non-availability of time. Adjournments requiring witnesses to repeatedly come to the Court is against the policy of law. There is, thus, need for strict monitoring to ensure that no witness is returned unexamined.

(v) We also found cases of adjournments being leisurely granted in respect of long custody in petty cases and financially poor accused continuing in detention on account of non-furnishing of bail bonds. This aspect may also need to be monitored.

We direct all the Trial Courts to consider the possibility of pruning the list of witnesses in consultation with the Public Prosecutor as well as the Defence counsel so that the number of witnesses required to be examined can be reduced at the threshold.

Similarly, the Trial Courts should consider the application of Section 309 of the CrPC and ensure whenever the witness is summoned and he or she appears, the witness is examined and is not made to go back home without being examined or cross-examined.

We expect all the Trial Courts to adhere to these directions some of which have already been issued from time to time on earlier occasions by this Court.

We also make it clear in cases of petty offences, the application of the principle “bail and not jail” should be particularly applied by the Trial Courts. There is no difficulty in applying this principle or in identifying petty cases. Similarly, where the accused is a poor person, the Trial Court should look into the question of grant of bail in a sympathetic and a compassionate manner and may even consider either releasing the accused on a personal bond or on a bond of a limited amount which is easily affordable by the accused.

We also direct the Trial Courts to consider the application of Section 436A of the CrPC in this regard.

There are Under Trial Review Committees set up in every district. Each of these Committees must look into the issues of under trial prisoner and wherever feasible, they should be released so that overcrowding in prisons is reduced, if not eliminated.

With regard to Item No. (x), this reads as follows:

(x) Number of trials are prolonged awaiting FSL reports which situation needs to be remedied forthwith.

The learned ASG should ascertain the number of Forensic Science Laboratories including Central Forensic Laboratories on a state-wise basis and also proposals, if any, for increasing the number of Forensic Science Laboratories. It is a matter of common knowledge that a large number of trials are held up because of delays in Forensic Science Laboratories. If the forensic examination can be expedited, it will expedite the trials of the Trial Court.

With regard to Item Nos. (xi), (xii) and (xiii), we propose to take it up on the next date of hearing.

List the matter on 22.11.2018.

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