

IN THE HIGH COURT OF JHARKHAND AT RANCHI

WP(PIL) No.4489 of 2021

The Court on its own Motion **Petitioner**
Versus

The State of Jharkhand and another **Respondents**

**CORAM: HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE NAVNEET KUMAR**

For the Petitioner : Mr. Manoj Tandon, *Amicus*
For the CBI : Ms. Chandana Kumari, AC to ASGI
For the JHC : Mr. Rupesh Singh, Advocate
For the State : Mr. Piyush Chitresh, AC to AG

Order No.22 / Dated 16th April, 2024

In compliance of the order dated 4th April, 2024, affidavits have been filed on behalf of the High Court of Jharkhand and the Central Bureau of Investigation (in short, CBI). These affidavits however do not provide any good reason for pendency of the criminal cases registered against MP's/MLA's. We really do not appreciate the statement made on behalf of the CBI that trial in the cases against MP's/MLA's is delayed primarily (i) due to limited Court resources (ii) shortage of Law Officers (iii) complex nature of cases and (iv) stay order passed by the constitutional Courts.

2. In the affidavit dated 16th April 2024, there is not even a whisper about the steps taken by the CBI to resolve the so-called challenges faced by it. We may also indicate that as far back as on 5th January 2022 this Court expressed its displeasure to the steps taken by the CBI so that the cases pending in the State of Jharkhand are disposed of expeditiously. There is no satisfactory response also on behalf of the State of Jharkhand which did not provide status report atleast in the last one and a half years.

3. Section 309 of the Code of Criminal Procedure provides that every inquiry or trial in a criminal Court shall continue from day to day until all the witnesses in attendance have been examined. There is a special

stipulation under section 309 to the effect that the proceedings in the trial can be adjourned for the next day and, that too, for the reasons to be recorded by the Court. The provisions under the section 309 of the Code of Criminal Procedure is intended at speedy trial which is a fundamental right of every accused under the Article 21 of the Constitution. This provision in law also protects the prosecution inasmuch as the chances of the accused tempering with the witnesses are minimized. This is no wonder that on account of long adjournments during the trial the witnesses are threatened and forced not to depose against the accused. This also seems to be an indisputable situation that on account of long lapse of time the witnesses, even though honest, do not support the prosecution due to loss of memory or a reason of like nature. In summation, we would simply indicate that the prosecuting agency is under a statutory duty and the Constitution of India also enjoins upon it to take all prompt and necessary steps for early and speedy disposal of the cases. In our opinion, the time has come for identifying the erring officer so that the laxity on the part of the prosecuting agency is curbed at the outset.

4. On the request of Ms. Chandana Kumari, the learned assisting counsel appearing for the CBI and Mr. Piyush Chitresh, the learned assisting counsel to the learned Advocate General, we adjourned the hearing of this case by two weeks to enable them to place on record the proposal/plan for (i) producing the witnesses in the trial and (ii) taking steps for apprehending the absconding accused.

5. The proposal/plan formulated by the CBI shall be prepared after a discussion with the Joint Director, CBI and the affidavit shall be sworn by an officer in the rank of the Superintendent of Police.

6. The proposal/plan by the State of Jharkhand shall be prepared on the instructions of the Inspector General of Police in consultation with the Zonal Deputy Inspector Generals of Police. The affidavit so prepared shall be sworn by the Officer so authorized by the Director General of Police.

7. Mr. Amit Kumar Das, the learned Retained Counsel for the Enforcement Directorate (in short, ED) shall also place on record the status

report as regards the cases being prosecuted against MP's/MLA's by the ED.

8. Post this matter on 08th May 2024.

(Shree Chandrashekhar, A.C.J.)

(Navneet Kumar, J.)

Tanuj