

ITEM NO.25

Virtual Court 6

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s).35524/2019

(Arising out of impugned final judgment and order dated 09-10-2017 in CRLA No.1183/2017 passed by the High Court Of Judicature At Allahabad)

KHURSHEED AHMAD

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

IA No. 160590/2019 - CONDONATION OF DELAY IN FILING,
IA No. 160591/2019 - EXEMPTION FROM FILING O.T. IA No. 162004/2019
- PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 15-06-2020 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For the parties

Mr. Tushar Mehta, SG
Mr. B.V.Balram Das, AOR

Ms. Aishwarya Bhati, AAG
Mr. Adarsh Upadhyay, AOR

Mr. Devadutt Kamat, Sr. Adv.
Mr. Rajesh Inamdar, Adv
Mr. Mohd Abrar Khan, Adv
Mr. Ali Asgar Rahim, Adv
Mr. Javedur Rahman, Adv
Mr. Aditya Bhat, Adv
Mr. Amarjeet Singh, AOR

Mr. Anilendra Pandey, AOR
Mr. Ardhendumauli Kumar Prasad, AOR(R-1)

UPON hearing the counsel the Court made the following
O R D E R

List on 29.07.2020.

The petitioner was convicted under Section 302
of the IPC and sentence to life imprisonment. The appeal

preferred by him against the conviction and sentence is pending before the High Court. As the application filed by him for suspension of sentence was rejected by the High Court, the petitioner filed this Special Leave Petition seeking for release on bail. The petitioner submitted that he has already undergone three years imprisonment and there no likelihood of appeal being heard in the near future.

On such submission, by an order dated 4.11.2019, this Court observed that a situation has arisen where a large number of criminal appeals are pending in certain High Courts for long periods of time. The court also observed that expeditious hearing cannot be directed only in cases where convicts approach this Court. At the same time, the Court was of the view that the convicted persons cannot be under incarceration for an indeterminate period of time.

We have heard Mr. Tushar Mehta, learned Solicitor General, Ms.Aishwarya Bhati, learned Additional Advocate General for the State of Uttar Pradesh and Mr.Devadutta Kamat, learned senior counsel for the petitioner.

According to the available statistics from the website of the National Judicial Data Grid¹ the total number of criminal appeals in such High Courts which have been pending for 30 years or more is 14484. Criminal appeals which have been pending for over twenty years- and up-to thirty years are 33,045; criminal appeals which have been pending for over ten years, upto 20 years are 2,35,914. The following table with regard to pendency of such cases in various High Courts would throw light on the problem:

¹ https://njdg.ecourts.gov.in/hcnjdg_public/main.php accessed on 15 June, 2020

Sl. No.	High Court	10-20 years	20 -30 years	30 years or more
1.	Allahabad	88,738	19734	14,207
2.	Rajasthan	22,945	5658	242
3.	Madhya Pradesh	28738	2602	
5.	Bombay	8474	838	8
6.	Orissa	8884	832	8
7.	Punjab & Haryana	19,864	317	
8.	Jharkhand	10462	645	2
9.	Kerala	8671	10	1
10.	Gujarat	5,898	546	

The above table is illustrative of the nature of the most chronic pendency in the 10 High Courts. Other High Courts have twenty or more-year-old criminal appeals (but less than 30 years old); they have not been mentioned.

These facts pose a challenge to the judicial system, inasmuch as right to speedy trial would also include the right to speedy disposal of appeals of those convicted. If such appeals are not taken up for hearing within a reasonable time, the right of appeal itself would be illusory, inasmuch as incarcerated convicts (who are denied bail) would have undergone a major part- if

not whole of the period of their sentence. The other challenge is to ensure that old criminal appeals, where High Courts had earlier, in the course of proceedings, granted bail or suspension of sentence. It is in public interest- and the interests of the convicts, that such appeals too are disposed of on merits expeditiously.

The High Courts of Uttar Pradesh, Rajasthan, Madhya Pradesh, Patna, Rajasthan, Bombay and Orissa shall file affidavits submitting their plan of action for deciding the criminal appeals that have been pending before the High Courts for a long period of time. The High Courts shall, in addition to the figures and data available with them also co-ordinate with the Director General Prisons, in their respective states, to compile data with respect to convicts in jails of those states, who are awaiting hearing of their appeals. While compiling such data, a suitable questionnaire, eliciting information with respect to appeal numbers, (of such convicts); the provisions under which the prisoners have been convicted; the period(s) of sentence undergone, the age(s) and gender of the prisoner/convicts, their health conditions (which of them are suffering from serious/ illnesses, shall be obtained. The state legal service authorities shall assist the DG Prisons, in drawing up suitable questionnaire, which shall be compiled and compared with the pendency of appeals.

The High Courts shall indicate, in their affidavits, the following:

- (a) Total number of convicts awaiting hearing of their appeals pending before them.
- (b) Segregation of single judge and Division Bench matters;
- (c) The number of cases where - in such old pending cases, bail has been granted;

- (d) Steps proposed to expedite hearing of appeals, including steps to prioritize hearing of cases of convicts in jail
- (e) Steps proposed to trace and ensure hearing of cases of those who were granted bail, and the timeline for starting hearings
- (f) Appropriate use of information technology, such as digitization of appeal records/paper books
- (g) Feasibility of creation of a dedicated pool of *amicus curae* who would assist the court in such old matters
- (h) Feasibility to creation of dedicated special benches for hearing and disposal of old cases or alternatively assigning a certain number of appeals to a large number of judges to be decided by them, regardless of which rosters they are assigned.

The above are only a few indicative steps, and shall not be considered exhaustive; the concerned High Courts are free to point out other steps and procedures they wish to adopt.

All the concerned state governments, prison authorities, state legal services authorities are directed to co-ordinate with the concerned High Courts in compiling the data.

The learned counsel appearing in this case shall also submit their proposals and suggestions relating to the adjudication of criminal appeals that have been pending for a long time in which cases, the appellants have been released on bail as well as those cases where the appellants have not been released on bail. Suggestions may also be made as to the release of the appellants on bail, after completion of half the sentence.

Any other suggestions pertaining to the problems relating to the delay in disposal of the criminal appeals in the above courts may be made by the High Court as well as the learned counsel appearing in this

case. The affidavits of the High Courts and suggestions/note of counsel (which shall not exceed five pages each) shall be filed at least five days in advance of the date of hearing.

(B.Parvathi)
Court Master

(Anand Prakash)
Court Master