

IN THE HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE.

SINGLE BENCH : HON'BLE SHRI JUSTICE ALOK VERMA

M.Cr.C. No.2895/2016

Sandeep Agrawal S/o Sohanlal Agrawal

Vs.

State of Madhya Pradesh

Shri Asif Warsi, learned counsel for the applicant.

Shri Abhisek Soni, learned counsel for respondent/State.

ORDER

(Passed on 11/11/2016)

This application is filed under Section 482 Cr.P.C. for quashment of proceedings arising from First Information Report in Crime No.838/2002 under Section 3/4 of Public Gambling Act, 1867 pending before the Judicial Magistrate First Class, Indore in Criminal Case No.2934/2002.

2. According to the counsel for the applicant, the applicant is facing trial before the Judicial Magistrate First Class in aforementioned criminal case under Section 3/4 of Public Gambling Act. The incident took place as back as in the year 2002. After investigation, charge-sheet was filed before the

concerning Court of Magistrate, and thereafter, from year 2002 for the last 14 years the trial is going on.

3. This application is filed on the ground that even after passing of 14 years, the prosecution witnesses are not attending the court and due to such a long pendency of the case, the right of speedy trial of the applicant is violated.

4. Learned counsel for the applicant places reliance on the judgment passed by the coordinate Bench of this Court in M.Cr.C. No.10205/2015 wherein the coordinate Bench of this Court quashed the proceedings pending before the Court of Judicial Magistrate First Class under Section 25(1B)(a) of Arms Act placing reliance in the case of Sohanlal vs. State of Rajasthan reported at Laws (Raj)-2000-3-28/TLRAJ-2000-0-281 and also in case of P.R. Rao vs. State of Karnataka; 2002(3)MPLJ 3 where the Hon'ble Apex Court observed as under :-

“21. In appropriate cases, inherent power of the High Court, under Section 482 can be invoked to make such orders, as may be necessary, to give effect to any order under the Code of Criminal Procedure or to prevent abuse of the process of any Court, or otherwise to secure the ends of justice. The power is wide and, if judiciously and consciously exercised, can take care of almost all the situations where interference by the High Court becomes necessary on account of delay in proceedings or for any other reason amounting to oppression or

harassment in any trial, inquiry or proceedings. In appropriate cases, the High Courts have exercised their jurisdiction under Section 482, Criminal Procedure Code for quashing of first information report and investigation, and terminating criminal proceedings if the case of abuse of process of law was clearly made out. Such power can certainly be exercised on a case being made out of breach of fundamental right conferred by Article 21 of the Constitution. The Constitution Bench in *A.R.Antulay* case (supra) referred to such power, vesting in the High Court (vide paras 62 and 65 of its judgment) and held that it was clear that even apart from Article 21, the Courts can take care of undue or inordinate delays in criminal matters, or proceedings if they remain pending for too long and putting to an end, by making appropriate orders, to further proceedings when they are found to be oppressive and unwarranted.”

5. Learned counsel for the State opposes the application and seeks further time to issue necessary direction to the concerning police station to produce the prosecution witnesses positively within two months.
6. Certified copies of proceedings from the lower court has been filed by the applicant.
7. Going through the proceedings, it is apparent that this small matter under Section 3/4 of Public Gambling Act which is punishable by fine of Rs.100/- and imprisonment for one month is pending for the last 14 years. The State Government could have

withdraw the prosecution under Section 321 Cr.P.C. for such a petty offence, however, it appears that in the last 14 years, the case was never scrutinized for the purpose of withdrawal though it is well known that such exercise was undertaken on many occasions by the State Government.

8. Taking all the facts of the case that emerge from the proceedings before the lower court, the application is allowed. The proceedings in Criminal Case No.2934/2002 pending before the Judicial Magistrate First Class, Indore is quashed.

9. The applicant is discharged from offence under Section 3/4 of Public Gambling Act.

(Alok Verma)
Judge