

SESSION 5



DELAY AND SPEEDY TRIAL

Manohar Lal Sharma versus Principal Secretary and ors.
[Coal Block allocation cases]



It has been observed that the order framing charge being interlocutory order, the same could not be interfered with under Section 397(2) nor under Section 482 Cr.P.C.

It has been further held that stay of proceedings could not be granted in cases even under Section 482 Cr.P.C.

It has been further observed that though power under Article 227 is extremely vast, the same cannot be exercised on the drop of a hat.

Kartar Singh versus State of Punjab: (1994) 3 SCC 569



64. A reading of Section 19(3) of the PC Act indicates that it deals with three situations: (i) Clause (a) deals a situation where a final judgment and sentence has been delivered by the Special Judge. We are not concerned with this situation. (ii) Clause (b) deals with a stay of proceedings under the PC Act in the event of any error, omission or irregularity in the grant of sanction by the authority concerned to prosecute the accused person. It is made clear that no court shall grant a stay of proceedings on such a ground except if the court is satisfied that the error, omission or irregularity has resulted in a failure of justice —then and only then can the court grant a stay of proceedings under the PC Act. (iii) Clause (c) provides for a blanket prohibition against a stay of proceedings under the PC Act even if there is a failure of justice [subject of course to Clause (b)]. It mandates that no court shall stay proceedings “on any other ground” that is to say any ground other than a ground relatable to the error, omission or irregularity in the sanction resulting in a failure of justice.

Kartar Singh versus State of Punjab: (1994) 3 SCC 569



65. A conjoint reading of clause (b) and clause (c) of Section 19(3) of the PC Act makes it is clear that a stay of proceedings could be granted only and only if there is an error, omission or irregularity in the sanction granted for a prosecution and that error, omission or irregularity has resulted in a failure of justice. There is no other situation that is contemplated for the grant of a stay of proceedings under the PC Act on any other ground whatsoever, even if there is a failure of justice. Clause (c) additionally mandates a prohibition on the exercise of revision jurisdiction in respect of any interlocutory order passed in any trial such as those that we have already referred to. In our opinion, the provisions of clauses (b) and (c) of Section 19(3) of the PC Act read together are quite clear and do not admit of any ambiguity or the need for any further interpretation.”

ASIAN RESURFACING OF ROAD AGENCY PVT. LTD. & ANR. VS.
CENTRAL BUREAU OF INVESTIGATION
(2018) 16 SCC 299



The legislative policy of expeditious final disposal of the trial is thus, hampered. Thus, even while reiterating the view that there is no bar to jurisdiction of the High Court to consider a challenge against an order of framing charge in exceptional situation for correcting a patent error of lack of jurisdiction, exercise of such jurisdiction has to be limited to rarest of rare cases. Even if a challenge to order framing charge is entertained, decision of such a petition should not be delayed.

32 Though no mandatory time limit can be fixed, normally it should not exceed two-three months. If stay is granted, it should not normally be unconditional or of indefinite duration. Appropriate conditions may be imposed so that the party in whose favour stay is granted is accountable if court finally finds no merit in the matter and the other side suffers loss and injustice. To give effect to the legislative policy and the mandate of Article 21 for speedy justice in criminal cases, if stay is granted, matter should be taken on day-to-day basis and concluded within two-three months. *Where the matter remains pending for longer period, the order of stay will stand vacated on expiry of six months, unless extension is granted by a speaking order showing extraordinary situation where continuing stay was to be preferred to the final disposal of trial by the trial Court.* This timeline is being fixed in view of the fact that such trials are expected to be concluded normally in one to two years.