

No.F.42(5)-HC/2018/9117
HIGH COURT OF TRIPURA
AGARTALA

CIRCULAR

Dated, Agartala, the 4th June, 2018

The Hon'ble High Court of Tripura, in terms of the orders dated 28.03.2018 and 25.04.2018 of the Hon'ble Supreme Court of India passed in Criminal Appeal Nos. 1375-1376 of 2013 [Asian Resurfacing of Road Agency Pvt.Ltd. & Anr. Vs. Central Bureau of Investigation] has been pleased to issue the following instructions to the Registry of the High Court as also the Courts subordinate to the High Court for strict compliance:

2. The Trial Courts and the Appellate and Revisional Courts within the jurisdiction of this High Court shall strictly follow the following directions issued in paragraph 35 of the Judgment and order dated 28.03.2018 passed by the Hon'ble Supreme of India Court in the case aforesaid:

"35. In view of above, situation of proceedings remaining pending for long on account of stay needs to be remedied. Remedy is required not only for corruption cases but for all civil and criminal cases where on account of stay, civil and criminal proceedings are held up. At times, proceedings are adjourned sine die on account of stay. Even after stay is vacated, intimation is not received and proceedings are not taken up. In an attempt to remedy this, situation, we consider it appropriate to direct that in all pending cases where stay against proceedings of a civil or criminal trial is operating, the same will come to an end on expiry of six months from today unless in an exceptional case by a speaking order such stay is extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay was more important than having the trial finalized. The trial Court where order of stay of civil or criminal proceedings is produced, may fix a date not beyond six months of the order of stay so that on expiry of period of stay, proceedings can commence unless order of extension of stay is produced."

3. All Civil and Criminal courts shall strictly follow the following directions in paragraph 36 of the judgment and order dated 28.03.2018 of the Hon'ble Supreme Court of India in the case aforesaid to ensure expeditious disposal of cases:

"36. Thus, we declare the law to be that order framing charge is not purely an interlocutory order nor a final order. Jurisdiction of the High Court is not barred irrespective of the label of a petition, be it under Sections 397 or 482 Cr.P.C. or Article 227 of the Constitution. However, the said jurisdiction is to be exercised consistent with the legislative policy to ensure expeditious disposal of a trial without the same being in any manner hampered. Thus considered, the challenge to an order of charge should be entertained in a rarest of rare case only to correct a patent error of jurisdiction and not to re-appreciate the matter. Even where such challenge is entertained and stay is granted, the matter must be decided on day-to-day basis so that stay does not operate for an unduly long period. Though no mandatory time limit may be fixed, the decision may not exceed two-three months normally. If it remains pending longer, duration of stay should not exceed six months, unless extension is granted by a specific speaking order, as already indicated. Mandate of speedy justice applies to the PC Act cases as well as other cases where at trial stage proceedings are stayed by the higher court i.e. the High Court or a court below the High Court, as the case may be. In all pending matters before the

High Courts or other courts relating to PC Act or all other civil or criminal cases, where stay of proceedings in a pending trial is operating, stay will automatically lapse after six months from today unless extended by a speaking order on above parameters. Same course may also be adopted by civil and criminal appellate/ revisional courts under the jurisdiction of the High Courts. The trial courts may, on expiry of above period, resume the proceedings without waiting for any other intimation unless express order extending stay is produced."

4. All the Trial Courts and Revisional / Appellate courts shall comply with the following directions issued in paragraph 4 and 5 of the order dated 25.04.2018 of the Hon'ble Supreme Court of India passed in the case aforesaid:

"4.To give effect to directions in judgment of this Court dated 28th March,2018 , noted above , we direct that wherever original record has been summoned by an appellate / revisional court, photocopy /scanned copy of the same may be kept for its reference and original returned to the trial courts forthwith.

5.We also direct that if in future the trial court record is summoned, the trial courts may send photocopy / scanned copy of the record and retain the original so that the proceedings are not held up. In cases where specifically original record is required by holding that photocopy will not serve the purpose , the appellate / revisional court may call for the record only for perusal and the same be returned while keeping a photocopy /scanned copy of the same."

5. This is for strict compliance by all concerned.

By order

Sd/-

(S.G.Chattopadhyay)

Registrar General

Memo. No.F.42(5)-HC/2018/ 9118-47

Dated, Agartala, the 4th June,2018

Copy to:

1. The Secretary General, Supreme Court of India.
2. The Principal Secretary to His Lordship, Hon'ble the Chief Justice, High Court of Tripura, Agartala.
3. The Secretaries to Hon'ble Judges, High Court of Tripura, Agartala.
4. The District & Sessions Judge, South Tripura Judicial District, Belonia / West Tripura Judicial District, Agartala/North Tripura Judicial District, Dharmanagar / Unakoti Judicial District, Kailashahar / Gomati Judicial District, Udaipur.
5. The Registrar (Vigilance), High Court of Tripura, Agartala.
6. The Registrar (Judicial), High Court of Tripura, Agartala.
7. The Judge, Family Court, Agartala, West Tripura Judicial District/ Kailashahar, Unakoti Judicial District/ Udaipur, Gomati Judicial District.
8. The Addl. District & Sessions Judge, West Tripura Judicial District, Sonamura, Khowai /Unakoti Judicial District, Kamalpur.
9. The Registrar (Admn.), High Court of Tripura, Agartala.
10. The Joint Registrar, High Court of Tripura, Agartala.
11. The Chief Judicial Magistrate, West Tripura Judicial District, Agartala/ Gomati Judicial District, Udaipur/ Unakoti Judicial District, Kailashahar/ South Tripura Judicial District, Belonia/ North Tripura Judicial District, Dharmanagar for circulation among all Judicial Officers within their respective District.
12. All Deputy Registrars, High Court of Tripura, Agartala.
13. The System Analyst, High Court of Tripura for uploading the circular in the official website.
14. File No. 44(11)-HC/2018.



Registrar General