

IN THE HIGH COURT OF MADHYA PRADESH

AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

MISC. CRIMINAL CASE No. 24900 of 2023

BETWEEN:-

VIJENDRA SINGH SIKARWAR S/O SHRI TEK SINGH SIKARWAR, AGED ABOUT 65 YEARS, OCCUPATION: AGRICULTURIST R/O- GOPAL PURA, P.S. KOTWALI DISTRICT MORENA (MADHYA PRADESH)

.....APPLICANT

(BY SHRI HARSHIT SHARMA - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH THROUGH POLICE STATION KOTWALI DISTRICT MORENA (MADHYA PRADESH)**
- 2. RAVI VAISHYA S/O SHRI HEERA SINGH VAISHYA, AGED ABOUT 43 YEARS, OCCUPATION: PRIVATE JOB R/O- BEHIND COMMANDANT BUNGLOW, AMPURA, P.S. KOTWALI, DIST. MORENA (MADHYA PRADESH)**
- 3. DEVENDRA SINGH KIRAR (YADAV) S/O SHRI RAMKISHAN KIRAR, AGED ABOUT 52 YEARS, OCCUPATION: AGRICULTURIST R/O- VILLAGE AMPURA, DIST. MORENA (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI VIRENDRA PAL – DEPUTY ADVOCATE GENERAL)

ORDER

AND

MISC. CRIMINAL CASE No. 24901 of 2023

BETWEEN:-

VIJENDRA SINGH SIKARWAR S/O SHRI TEK SINGH SIKARWAR, AGED ABOUT 65 YEARS, OCCUPATION: AGRICULTURIST R/O- GOPAL PURA, P.S. KOTWALI DISTRICT MORENA (MADHYA PRADESH)

.....APPLICANT

(BY SHRI HARSHIT SHARMA - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH THROUGH POLICE STATION KOTWALI DISTRICT MORENA (MADHYA PRADESH)**
- 2. LALLU@ GAURAV S/O SHRI DEVENDRA SINGH KIRAR (YADAV), AGED ABOUT 22 YEARS, OCCUPATION: STUDENT R/O- VILLAGE AAMPURA P.S. KOTWALI DISTT. MORENA (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI VIRENDRA PAL – DEPUTY ADVOCATE GENERAL)

Reserved on : 12/09/2023

Pronounced on : 21/09/2023

These petitions having been heard and reserved for order coming on for pronouncement this day, this Court passed the following:

ORDER

With consent heard finally.

- 1. Regard being had to the similitude of the subject matter involved, both the cases are heard analogously and disposed of by a common order. For**

convenience's sake, facts of Misc. Criminal Case No.24900 of 2023 are taken into consideration.

2. Instant petition under Section 482 of Cr.P.C. has been preferred by the petitioner for issuance of direction to the learned Trial Court for expeditious conclusion of proceedings/criminal trial in relation to the case pending at SC DOCT No.10/2019 before learned Special Judge (MPDVPK Act), District Morena.

3. Petitioner is the informant/complainant/victim in the instant case, wherein at his behest, an FIR bearing Crime No.1364/2018 has been lodged because of the murder of his son Raghvendra, in which on the basis of his information, case was registered under Sections 147, 148, 149, 302, 394 of the Indian Penal Code and Sections 11, 13 of the M.P. Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam, 1981 (hereinafter referred as "MPDVPK Act").

4. Investigation was carried out by the police, wherein the accused persons were apprehended and arrested and after conclusion of investigation, charge-sheet was filed before the Special Court so established under the MPDVPK Act, whereby after taking of the cognizance for the offences, charges were framed for offences under Sections 396, 394, 302, 147, 148, 149, 120-B of IPC, Sections 25, 27 of the Arms Act, 1959 and Sections 11, 13 of the MPDVPK Act.

5. Out of five named accused persons, three accused persons were juvenile and out of them, one CIJL namely Lallu @ Gaurav was ordered to be tried as an adult by the Juvenile Justice Board, whose order was affirmed by the Session Court and therefore, he is being tried before the court of V Additional Session Judge, Morena in Sessions Trial No.149/2019.

6. As the date of incident was 19.12.2018 and cognizance was taken for

the offence in the instant matter on 15.03.2019, wherefor more than four years have elapsed and all the eye-witnesses have been examined before the learned Trial Court and only official and formal witnesses are yet to be examined and through the proceedings filed by the petitioner with the petition as well as synopsis indicate that because of non-appearance of some witnesses, case is lingered on, therefore, this petition has been preferred.

7. It is the submission of learned counsel for petitioner that only the formal witnesses are left to depose before the learned Trial Court, wherein police witnesses including Investigating Officer are not turning up for deposition on summons, therefore, the learned Trial Court was compelled to issueailable warrants and in certain situations, even arrest warrants are issued for securing the presence of police/formal witnesses.

8. Right to Speedy Trial and Access of Justice is one of the fundamental rights of the petitioner as enshrined under Article 21 of the Constitution. The right to speedy trial extends equally to all criminal prosecutions and is not confined to any particular category of cases. When delay is not caused at the instance of informant/complainant party, it is all the more important the trial be conducted in a time bound manner because already more than four and half years have been spent.

9. Some of the accused persons meanwhile intimidated the witnesses for which appropriate proceedings were undertaken for cancellation of bail.

10. Learned counsel for the petitioner referred in detail about the scope of Article 21 of the Constitution *vis-a-vis* speedy investigation as well as trial and referred Sections 173, 197, 309, 437(6) and 468 of the Cr.P.C.. He referred judgments rendered by the Hon'ble Supreme Court in the case of **Maneka Gandhi Vs. Union of India and another** reported in (1978) 1 SCC

248, Hussainara Khatoon and others Vs. Home Secretary, State of Bihar, reported in (1980) 1 SCC 81, **Abdul Rehman Antulay and others Vs. R.S. Nayak and another** reported in (1992) 1 SCC 225, **“Common Cause” A Registered Society Vs. Union of India (UOI) and others** reported in (1996) 4 SCC 33, **“Common Cause” A Registered Society Vs. Union of India (UOI) and others** reported in (1996) 6 SCC 775, **Raj Deo Sharma Vs. State of Bihar** reported in (1998) 7 SCC 507, **Raj Deo Sharma II Vs. State of Bihar** reported in (1999) 7 SCC 604, **P. Ramachandra Rao Vs. State of Karnataka** reported in (2002) 4 SCC 578, **Vakil Prasad Singh Vs. State of Bihar** reported in (2009) 3 SCC 355.

11. He also referred a study conducted by Center for Legal Studies wherein research work titled as **“Summons in the Digital Age: ICT integration in the service of summons**, to submit that much delay is caused in service of summons to the witnesses who are called for deposition before the learned Trial Court.

12. Learned counsel for the petitioner also referred the order dated 13.09.2022 passed by this Court in **MCRC No.41617/2022 (Bantu @ Dharmendra Gurjar Vs. State of M.P.)** to submit that mechanism as discussed in the said order be given effect to, so that summons may be served effectively over the witnesses and trial may not be delayed just because of non-appearance of witnesses.

13. Learned Deputy Advocate General for the respondents/State tried to oppose the prayer, but fairly submitted that some delay is caused in the trial because of non-appearance of witnesses. Shri Virendra Pal, learned Deputy Advocate General appearing on behalf of the State rose to the occasion when he submitted that a system deserves to be created for effective service of

summons over the witnesses in a criminal trial. Sometimes, officers who were part of investigation, are transferred to some other places and therefore, service of summons consumes time and sometimes, some other witnesses change their residence or move out in other city, therefore, its becomes difficult for police to search them and serve them with summons. However; he undertakes that in the present case, the police authorities shall ensure service of summons at the earliest.

14. He also shared the opinion expressed by the learned counsel for the petitioner that some mechanism deserves to be formulated for effective service of summons in the trial because it consumes major time of learned Trial Courts during trial. He also relied upon the order dated 15.09.2022 as well as 28.09.2022 passed by this Court in the case of **Bantu @ Dharmendra Gurjar (Supra)**.

15. In sum and substance, counsel for the petitioner and respondents shared the anxiety of petitioner in respect of delay caused in trial. In the conspectus of facts situation, since it is an anxiety of all the stake holders (complainant, investigation, prosecution, accused and adjudication) therefore, informant and respondents/State were heard at length and perused the documents / proceedings appended thereto.

16. This is a case where petitioner is unfortunate father of deceased Raghvendra who was allegedly murdered by accused persons on 09.12.2018. In fact, his agony started from the date when his son was murdered. However; police promptly filed the charge-sheet on 15.03.2019 before the learned Trial Court. Almost four and half years have passed since then, but trial is not being completed. Incidentally, all the eye-witnesses have been examined but other formal and departmental witnesses are yet to be examined and that is causing

delay in the trial.

17. For appreciating the factual bearing of the case in better perspective, different dates fixed and proceedings undertaken before the learned Trial Court are reproduced for ready reference:-

	Summons were issued to Vijendra & Ramvir to depose	
22.06.2019	Witness Vijendra present Court was hearing final arguments in a High Court directed matter Vijendra not examined Summons to Ramvir were served Vijendra bounded for next date Arrest warrant issued to Ramvir	23.07.2019
23.07.2019	P.O. on leave Witnesses Ramvir & Vijendra present No evidence recorded & witnesses were sent back being summoned again for next date	21.08.2019
21.08.2019	Witness not present Service of summons awaited Witnesses were again summoned	19.09.2019
19.09.2019	Witness Vijendra present whose evidence was recorded as P.W.-01 Service report of summons not received Summons were issued against witness Ramvir	21.10.2019
21.10.2019	Witness not present Witness Sharad Sikarwar was summoned	22.11.2019
22.11.2019	P.O. on leave Witness Sharad present & bound for next date as presiding officer was not available	23.12.2019
23.12.2019	P.O. on leave Witness Sharad present & bound for next date as presiding officer was not available	23.01.2020
09.01.2020	Bail order of accused Ravi by HC presented to TC & release order was issued	23.01.2020
23.01.2020	Witness not present	28.02.2020

	Sharad being bounded not present, hence bailable warrant issued Summons issued to Ramvir	
07.02.2020	Accused Ravi submitted photographs of trees in compliance of HC order	28.02.2020
28.02.2020	Witness Sharad present & recorded examination-in-chief as P.W.-02 Accused Devendra submitted application u/s. 231(2) Cr.P.C. & another application to take deposition of Vijendra as recorded in ST 149/19 on record Heard on applications & allowed, whereby recording of evidence of witnesses Sharad (cross-examination left), Sandeep & Ramu should be recorded at once Witness Sharad was bounded for next date & Sandeep as well as Ramu was summoned	18.03.2020
18.03.2020	Covid-19 Pandemic	16.04.2020
05.10.2020	Covid-19 Pandemic and regular order sheets were not being written	17.11.2020
17.11.2020	Proceedings through VC As matter pertained to under trial prisoner & is posted for recording of evidence of PW Witness Sharad summoned (cross-examination left)	02.12.2020
02.12.2020	Service report of summons to witness Sharad not received Again, summons was issued Accused & defence advocate was directed to remain present at next date	18.12.2020 (wrongly mentioned as 18.12.2021)
18.12.2020	Service report of summons to witness Sharad not received Again, summons was issued	23.01.2021

	Accused & defence advocate was directed to remain present at next date	
23.01.2021	Witness Sharad (P.W.-02) present In view of order dated 28.02.2020 witness not cross-examined Witnesses Sandeep & Ramu was summoned Accused & defence advocate was directed to remain present at next date	02.03.2021
02.03.2021	Witnesses Sharad (P.W.-02), Ramu (P.W.-03) & Sandeep (P.W.-04) were present in view of summons served with report Evidence of Ramu (P.W.-03) & Sandeep (P.W.-04) were recorded & released thereof Witness Sharad (P.W.-02) whose cross-examination is left; defence took time & granted & bounded for next date	01.04.2021
01.04.2021	Witness Sharad (P.W.-02) cross-examined Witness Ramvir Senthia (S.I.) summoned Accused Ravi submitted photographs of trees in compliance of HC order (later on)	27.04.2021 (Complete lockdown second wave of Covid-19 from 19.04.21 to 03.06.21)
17.06.2021	Witness Ramvir Senthia (S.I.) again summoned	08.07.2021
23.06.2021	Bail order of accused Devendra by HC presented to TC & release order was issued as sell as documents taken on record	08.07.2021
08.07.2021	Witness not present Again, witness Ramvir Senthia (S.I.) summoned	06.08.2021

20.07.2021	Accused Ravi submitted photographs of trees in compliance of HC order	06.08.2021
06.08.2021	Witness not present Again, witness Ramvir Senthya (S.I.) summoned	11.09.2021
11.09.2021	Witness Ramvir Senthya (S.I.) though served not present Witness Manoj present Lok Adalat & therefore matter not taken up	01.10.2021
01.10.2021	P.O. on leave Witness Manoj present Accused Ravi submitted photographs of trees in compliance of HC order	22.10.2021
22.10.2021	Witness Manoj present Defence counsel sought time Witness Manoj bound for next date	30.11.2021
30.11.2021	Witness Manoj present Prosecution sought time as articles which is to be identified is not in court Seeing the status of old cases in court, near date not provided	03.01.2022
03.01.2022	Witness Manoj present Defence counsel took time Witness Manoj was bound for next date Accused Ravi submitted photographs of trees in compliance of HC order (later on)	19.01.2022
19.01.2022	Case not taken up	25.02.2022
25.02.2022	Witness Manoj (P.W.-05) present and his part examination-in-chief recorded Articles still not presented in court, thus, examination in chief deferred	11.03.2022

	to next date & Witness Manoj was bound	
08.03.2022	New sureties for accused Devendra	11.03.2022
11.03.2022	Witness Manoj (P.W.-05) present and after recording of evidence he was relieved Witness Ashok & Pradeep (A.S.I.) was summoned (formal witnesses)	07.04.2022
07.04.2022	Witnesses not present Summons served to witness	11.05.2022 for PW 11.07.2022 for trees

	Bailable warrant against Brasna served & summons to witness Ramvir Senthia (S.I.) unserved Application was preferred by informant counsel, whose copy was given to prosecution & defence counsel All witnesses including Ramvir Senthia summoned	27.10.2022 for application & PWs
27.10.2022	Witnesses not present Summons served to Ramvir Senthia (S.I.) and thus, ₹500 bailable warrant issued Accused Ravi submitted report in respect of trees planted	12.01.2023 for report on tress, informant's application & PWs
12.01.2023	Witness Ramvir Senthia (P.W.-07) present, examined & relieved Witnesses Malkhan, Ashok & Dr. Ramakhtyar summoned to depose	12.04.2023 for report on tress, informant's application & PWs
12.04.2023	Witness Ashok (P.W.-08) present, examined and relieved Accused Ravi submitted report in respect of trees planted Witnesses Malkhan & Dr. Ramakhtyar again summoned to depose	18.05.2023 for report on tress, informant's application & PWs
18.05.2023	Witnesses not present Service of summons awaited Witness Dr. Ramakhtyar again summoned to depose	04.07.2023

18. Perusal of the different order sheets of learned Trial Court indicate that eye-witnesses have been examined somehow. Accused and their different advocates also tried their share of craftsmanship to delay the trial but most of the time either witnesses were not present or articles were not presented in the court or some contingency cropped up or caused to be cropped up by the defence counsel or by prosecution or even at times by police to delay the trial. No malafide as such is attributed but casualness is certainly on the cards. The case is of murder of young man and accused persons are facing trial for offence under Section 302 of IPC beside other grievous charges. The petitioner has specifically levelled allegations regarding threatening / tampering of witnesses, therefore, matter becomes all the more serious.

19. The right to speedy trial and access of justice in all criminal prosecutions is an inalienable right under Article 21 of the Constitution. Apex Court in the case of **Hussainara Khatoon (supra)** exhaustively considered Article 21 of the Constitution *vis-a-vis* delay in trial.

20. Thereafter in the case of **Abdul Rehman Antulay (supra)**, Apex Court while referring plethora of decisions and the American Precedence on the 6th Amendment of their Constitution elaborately narrated the concept.

21. Notwithstanding elaborate enunciation of Article 21 of the Constitution in **Abdul Rehman Antulay (supra)**, and rejection of the fervent plea of proponents of right to speedy trial for laying down time-limits as bar beyond which a criminal trial shall not proceed, pronouncements of this Court in “**Common Cause**” **A Registered Society Vs. Union of India (UOI) and Ors.**, “**Common Cause**”, **A Registered Society Vs. Union of India and Ors.**” **Raj Deo Sharma Vs. State of Bihar**” and **Raj Deo Sharm II Vs. State of Bihar**, gave rise to some uncertainty on the question whether an outer

time limit for conclusion of criminal proceedings could be prescribed whereafter the trial court would be obliged to terminate the proceedings and necessarily acquit or discharge the accused.

22. The confusion on the issue was set at rest by a seven-Judge Bench of this court in **P. Ramachandra Rao Vs. State of Karnataka**. Speaking for the majority, R.C. Lahoti, J. (as his Lordship then was) while affirming that the dictum in **A.R. Antulay's case (supra)** as correct and the one which still holds the field and the propositions emerging from Article 21 of the Constitution and expounding the right to speedy trial laid down as guidelines in the said case adequately take care of right to speedy trial, it was held that guidelines laid down in the **A.R. Antulay's case (supra)** are not exhaustive but only illustrative. They are not intended to operate as hard and fast rules or to be applied as a strait-jacket formula. Their applicability would depend on the fact-situation of each case as it is difficult to foresee all situations and no generalization can be made.

23. It has also been held that it is neither advisable, nor feasible, nor judicially permissible to draw or prescribe an outer limit for conclusion of all criminal proceedings. Nonetheless, the criminal Courts should exercise their available powers such as those under Sections 309, 311 and 258 of the Cr.P.C. to effectuate the right to speedy trial. In appropriate cases, jurisdiction of the High Court under Section 482 Cr.P.C. and Articles 226 and 227 of the Constitution can be invoked seeking appropriate relief or suitable directions. The outer limits or power of limitation expounded in the aforementioned judgments were held to be not in consonance with the legislative intent.

24. It is, therefore, well settled that the right to speedy trial in all criminal prosecutions is an inalienable right under Article 21 of the Constitution. This

right is applicable not only to the actual proceedings in court but also includes within its sweep the preceding police investigations as well. The right to speedy trial extends equally to all criminal prosecutions and is not confined to any particular category of cases. In every case, where the right to speedy trial is alleged to have been infringed, the court has to perform the balancing act upon taking into consideration all the attending circumstances, enumerated above, and determine in each case whether the right to speedy trial has been denied in a given case.

25. Since the petitioner in the present case is complainant and delay is not occasioned on the pretext of the complainant, therefore, agony of the petitioner would be doubled (since his son has been murdered) if on account of delay in trial, accused seeks quashment of proceedings or gets benefit otherwise. This aspect has been discussed in the case of **Vakil Prasad Singh Vs. State of Bihar** reported in **(2009) 3 SCC 355**.

26. Learned counsel for the petitioner placed a research work of VIDHI Center for Legal Policy and in their research work titled as “**Summons in the Digital Age**” in the said research work it has been found that during adjudication, attendance of parties to the dispute (such as defendants and witnesses) is a herculean task. At many places (Civil/Criminal Courts) 25% of the life cycle of a civil case and 18% in a criminal case is consumed in notice and summons. Said report referred some different mechanisms also in this regard for ensuring the attendance of witnesses.

27. Under the Code of Criminal Procedure, 1973, the process of summons is governed under Sections 61 to 69. These provisions provide for several modes of service of summons. Further, different High Courts through their practice rules, regulate the service of summons and different modes of service.

A dedicated system for delivery of summons called as **National Service and Tracking of Electronic Processes (NSTEP)** has facilitated improvement in the efficiency at the summons stage. However; still something more is required to be done.

28. This Court is of the considered opinion that time consumed in summoning the witnesses and when witnesses do not turn up cause severe dent to the case of prosecution and ultimately defeats the cause of justice. Due to delay, witnesses are threatened, won over, overpowered or allured so that they did not support the story of prosecution and become hostile. Even if they are not won over, even then they do not turn up for deposition. Some times big communication gap exists because those summons which are being issued by the learned Trial Court did not reach to the witnesses and for police, it is a less important job.

29. Therefore, a thought was given by this Court earlier in the case of Bantu @ Dharmendra Gurjar (MCRC No.41617/2022) in which vide order dated 15.09.2022 and thereafter on 28.09.2022 issued certain directions and the copy of the order was sent to the Director General of Police and Director, Prosecution (as well as Advocate General) for information and for sensitization of the concept as well as for inviting suggestions for betterment of the concept. Therefore, this Court is hopeful that these officers must have contemplated over this thought wherein creation of WhatsApp Group was suggested by this Court.

30. This Court intends to reiterate the said suggestion for the purpose of present case as well as for other cases to follow so that not only in the present case, witnesses may be served and officers must turn up for deposition before the learned Trial Court so that this trial may be concluded at the earliest., but

these suggestions may go a long way for Police Authorities, Prosecutors and Complainants/Witnesses for seamless conduct of trial.

31. Such suggestions are reproduced as under:-

(i) Every police station, specially Investigating Officers must create a “**WhatsApp**” Group of every crime number unfolding heinous offences consisting of Investigating Officer, Complainant/Informant, Court Munshi, concerned Court Clerk, Prosecution Officer at the initial stage. This can be the First Phase of membership of said WhatsApp Group which would be in respect of the crime number under which heinous offence is under investigation. Therefore, that crime number would be the name of the WhatsApp Group. Court Munshi or Investigating Officer as the case may be can act as Admn. (Administrator) of the said WhatsApp Group. This group would be created only for the purpose of the service of summons, any other information related to that particular case and to protect the complainant and witnesses from the wrath of mischievous accused persons. Information sent over the said group and privacy of the data would be maintained by all the members of the group.

(ii) It would serve two purposes: (i) service of summons and other related information would be immediately passed to the complainant/witnesses/other members and another benefit would be that in case of any threat or intimidation by accused persons to the complainant or witnesses (specially vulnerable witnesses), then those witnesses may immediately inform the Investigating Officer to take appropriate action against accused person or mischievous

element. By this way spirit of judgment passed by the Apex Court in the case **Mahendra Chawla and others Vs. Union of India and others** reported in **2018 SCC Online SC 2678 (Judgment dated 05.12.2018)** can be realized. In the said judgment **Witness Protection Scheme 2018** was adopted by the Supreme Court in letter and spirit and directed the Union of India as well as States and Union Territories to enforce it in letter and spirit. Said judgment is declared as the law under Article 141/142 of the Constitution, till the enactment of suitable parliamentary and / or State Legislation on the subject. Certain more directions were also given in the said judgment in respect of vulnerable witnesses and other related aspects. **Their Secondary Victimization** would be controlled by this approach.

Therefore, beside protection of witnesses of said crime number, this WhatsApp Group would facilitate early intimation of dates to the witnesses fixed before the learned Trial Court.

(ii) In Second Phase, witnesses who gave statements under Section 161 of the Cr.P.C. and witnesses related to seizure memos, officers related to medical examination, public witnesses and other forensic officers and concerned police officers and other remaining witnesses can be incorporated. Through this mechanism all witnesses can be informed well in advance about the date of appearance in the learned Trial Court. Court Clerk or Court Munshi can post the summons on WhatsApp group beside serving in person in usual mode and therefore, all witnesses would have information about their appearance in the learned Trial Court well in advance. By this way they can change their programme or amend it

accordingly.

(iii) In Third Phase: if many witnesses of same family are available then female witnesses may be dispensed with and only male members can be incorporated.

(iv) In Fourth Phase: suitable precautions can be undertaken in respect of matters pertaining to POCSO Act or related to Juvenile Justice Act. Prosecutrix or Child in Need of Care and Protection should not be incorporated and in their place, their parents or guardian can be incorporated.

(v) If required, then Admn. of the WhatsApp group can add all witnesses or related persons as mentioned in Clause (i) to (iv) at the very beginning also, if Admn. desires so. It is discretion of concerned Admn./Investigating Officer of the case.

32. When WhatsApp Groups is created, this fact can be referred in the order sheet and when trial is over, then it may be ensured that said WhatsApp Group is deleted. Privacy and dignity/decency of the members of the WhatsApp Group be maintained, so that it may be available only as tool for facilitation of trial rather than for any other purpose.

33. These suggestions are only illustrative and not exhaustive. Any good suggestion as contemplated by the police officers can also be incorporated, provided it helps in seamless conclusion of trial while maintaining the privacy and identity of the witnesses.

34. In the present case, it appears that sufficient time has consumed by the stake holders in conducting the trial. It affects the confidence and morale of complainant in particular and cause of justice in general.

35. Not to forget that District Prosecution Officer plays an important role in conduct of trial and therefore, Director, Prosecution and District Prosecution Officer, Morena are duty bound to take interest in the case for ensuring the appearance of witnesses. Not only this, Superintendent of Police, Morena and Inspector General, Chambal Zone are also duty bound to intimate the official witnesses about their prompt attendance in the trial as witnesses, so that trial can be concluded at the earliest. Already, it exceeded the reasonable period of time.

36. Police authorities can ensure service of summons of other witnesses also in which District Prosecution Officer shall cooperate and shall undertake their Chief Examinations before the learned Trial Court without any delay.

37. Learned Trial Court is further directed to take pro-active steps to keep the case posted on weekly basis and any tactics adopted by the defence counsel to get the case adjourned be dealt with seriously. It is the duty of defence counsel also to participate in the mission of speedy justice as enshrined under Article 21 of the Constitution. Right to access justice is not confined to accused only. It is available for complainant/informant also. Rather, it is all pervasive.

38. Therefore, in the considered opinion of this Court, Investigation (Police), Prosecution (District Prosecution Officer) and Adjudication (Trial Court) shall rise to the occasion and shall ensure the presence of private/official witnesses without any delay and Senior Officers of the department shall cooperate in this regard. **It is earnestly believed by this Court that Director General of Police and Director, Prosecution shall seriously take a workshop and suggestion from police officers and other experts to think of creating concept of WhatsApp Groups for twin**

purpose of summoning the witnesses and protection of witnesses.

39. Accordingly, both these petitions are **allowed and disposed of** with aforesaid directions.

40. **Copy of this order be sent to the Director General of Police, Director Prosecution, Inspector General, Chambal Zone and Superintendent of Police, District Morena for information and ensuring the compliance with promptitude.**

41. Matter be placed under the **caption “Direction” for ensuring the compliance in the week commencing 20.11.2023 at Top of the list.**

(ANAND PATHAK)
JUDGE

Rashid