

**IN THE COURT OF SH.RAMESH KUMAR,
PRINCIPAL DISTRICT & SESSIONS JUDGE,
NORTH EAST, KARKARDOOMA COURTS, DELHI**

**CR No. 41/21
CIS No. DLNE01-003555-2021**

In the matter of:

**SHO, PS Bhajanpura,
Delhi.
(Through Spl. P. P)**

..... Revisionist

Versus

- 1. Neeraj @ Kashi
s/o late Sh. Rohtas
R/o H. No.B-204, Gali no.6,
Bhajanpura, Delhi**
- 2. Manish @ Rahul
s/o Ravinder Kumar
r/o D-54, Gali no.3,
Bhajanpura, Delhi-110053**
- 3. Amit Goswami
s/o Ashok Kumar
r/o H. No.C-266, gali no.11,
Bhajanpura, Delhi.**
- 4. Sunil Sharma
s/o Sh. Mani Ram Sharma
r/o H. No.C-477, gali no.24,**

Bhajanpura, Delhi.

5. Sonu

s/o Sewa Nand
r/o H.No.C-406, gali no.17,
Bhajanpura, Delhi.

6. Rakesh

s/o Ram Raj Sahu
r/o House Roshan Gujjar Ka Makan
Gamri, Delhi.

7. Mukesh

s/o Sonbit Ray
r/o H. No. C-407, gali no.17,
Bhajanpura, Delhi

8. Shyam Patel @ Ram Chander

s/o Bansi Patel
r/o H. NO.C-405, gali no. 17,
Bhajanpura, Delhi

.....Respondents

Date of institution of case:	16.10.2021
Date of hearing arguments:	01.12.2021
Date of passing of judgment:	01.12.2021

**CRIMINAL REVISION PETITION, UNDER SECTION 397/399 READ
WITH SECTION 401 Cr.P.C, AGAINST THE IMPUGNED ORDER,
DATED 12.10.2021, PASSED BY THE COURT OF SH.ARUN
KUMAR GARG, LD.CMM, (NORTH-EAST) DISTRICT,
KARKARDOOMA COURT COMPLEX, DELHI.**

JUDGMENT:

1. The present revision petition is preferred by SHO PS Bhajanpura (**hereinafter referred to as revisionist**) against the impugned order, dated 12.10.2021, passed by the court of Sh. Arun Kumar Garg, Id. CMM, North-East District, Karkardooma Court Complex, Delhi, whereby the Id. Trial Court, while allowing request for further investigation, made on behalf of the State, imposed cost of Rs.25,000/-, to be paid by the State to all the seven accused persons in equal proportion and directed the Commissioner of Police, to furnish a detailed report regarding steps taken by him to ensure proper investigation/prosecution of the cases, pertaining to North East riots and further directed Secretary (Home), Union of India to order an inquiry to fix the responsibility for imposition of cost and deduction of the same from the salary of the responsible officer, under intimation to the court.

2. It is stated, in the revision petition, that FIR no.167/2020, was registered, under section 147/148/149/380/436 IPC at PS Bhajanpura, and, after the investigation, the charge-sheet was filed against accused Neeraj @ Kashi and others. It is further stated that Id. Sessions Court, vide order, dated 10.09.2021, made certain observations, in respect of the investigation conducted in the matter, which made it necessary for the investigating agency to take up further investigation and as such the Id. Spl. P. P as well as the Investigating Officer, sought permission of the Id. Trial Court, on 12.10.2021, for further investigation. It is further stated that the request for further investigation, made before the Id. Trial Court, was without delay as the same was made on the very first date before the Id. Trial Court, after the passing of the direction by the Id. Sessions Court.

3. It is further stated that it is the basic law that if the adjournment is

sought on justifiable ground, as was sought in the present case, it ought to be granted. Thus, the imposition of cost with subsequent observations/direction, is unwarranted and uncalled for and the impugned order deserves to be set aside. It is further stated that the Id. Trial Court failed to appreciate that the further investigation is a prerogative of the Police, as per the provision of Section 173(8) Cr.P.C, and, it can be done at any stage. In this regard reliance is placed on judgment, passed by the Hon'ble Supreme Court, in case titled as **Hassan Bhai Vali Bhai Qureshi Vs. The State of Gujrat**, wherein it is held as under:-

“ When defective investigation comes to light during the course of trial, it may be cured by further investigation, if, circumstances so permitted....”

4. I have heard Id. Special Public Prosecutor for the revisionist and Id. Counsel for the respondents/accused persons and carefully perused the record file and have gone through the material placed on record.

5. The relevant portion of the impugned order, dated 12.10.2021, is reproduced herein below as under:

“In the meantime, the request of IO for segregation of the complaint qua the accused Faizan Khan and for further investigation in the present case is allowed, however, considering the delay in moving the present application leading to undue harassment of the accused persons, two of whom are still running in JC, the said request is allowed subject to adjournment cost of Rs.25,000/-, to be paid by the State to all the seven accused in equal proportion on the next date.....”

6. It is argued by ld. Spl. P.P that the impugned order deserves to be set aside as the ld. Trial Court failed to take into consideration that awarding cost in favour of the accused amounts to compensation and gives impression that the accused are being rewarded, while the State agency is being reprimanded. As such, it is argued that the ld. Trial Court has exceeded its jurisdiction. In these circumstances, it is stated that the revision petition be allowed, which otherwise, shall cause irreparable loss to the revisionist.

7. Ld. Counsel for the accused persons/respondents, on the other hand, argued that there is no infirmity in the impugned order, dated 12.10.2021, as the same is passed by the ld. Trial Court, after observing the conduct of the investigating agency, which basically raises serious question on the working of the Delhi Police, as undue delay is being caused in the trial of the cases pertaining to North East riots.

8. Perusal of the impugned order, dated 12.10.2021, shows that the request for adjournment was made on behalf of the State, on the ground of observations, made by the ld. ASJ-03, North East, vide order, dated 10.09.2021, which appears to be bonafide one.

9. In this background, it is pertinent to rely on judgment passed by the Hon'ble Supreme Court in case titled as **P. Ramchandra Rao Vs. State of Karnataka, Appeal (Crl.) 535 of 2000**, wherein it was held as under:

It is neither advisable, nor feasible, nor judicially permissible to draw or prescribe an outer limit for conclusion of all criminal proceedings. The time-limits or

bars of limitation prescribed in the several directions made in Common Cause (I), Raj Deo Sharma (I) and Raj Deo Sharma (II) could not have been so prescribed or drawn. The criminal courts are not obliged to terminate trial or criminal proceedings merely on account of lapse of time, as prescribed by the directions made in Common Cause Case (I), Raj Deo Sharma case (I) and (II). At the most the periods of time prescribed in those decisions can be taken by the courts seized of the trial or proceedings to act as reminders when they may be persuaded to apply their judicial mind to the facts and circumstances of the case before them and determine by taking into consideration the several relevant factors as pointed out in A.R. Antulay's case and decide whether the trial or proceedings have become so inordinately delayed as to be called oppressive and unwarranted. Such time-limits cannot and will not by themselves be treated by any Court as a bar to further continuance of the trial or proceedings and as mandataroly obliging the court to terminate the same and acquit or discharge the accused....”

10. In the present matter, it is clear that the ld. Trial Court granted adjournment for compliance of the order of the ld. Sessions Court, however, cost was imposed on the State on account of delay in moving appropriate application by the IO. Since, IO was supposed to comply with the direction of the ld. Sessions Court, I am of the considered opinion that the imposition of cost of Rs.25,000/- is not justified.

11. In view of the aforesaid discussions and the law laid down in the aforesaid judgment, the revision petition is allowed and the impugned order, dated 12.10.2021, is set aside to the extent that the cost of Rs.25,000/-, imposed by the ld. Trial Court, to be paid by the State to the accused persons in equal proportion, is hereby waived. Further, directions issued to Commissioner of Police, Delhi, as well as Secretary (Home), Union of India, are also set aside. However, concerned DCP is directed to ensure expeditious trial of the cases pertaining to the North East riots and sensitize subordinates police officials, so that, there is no delay in trial of

cases pertaining to North East riots. With these observation, the revision petition is disposed of.

12. Copy of this judgment, along with Trial Court record, be sent to the Trial Court for information.

13. Copy of this judgment be also sent to DCP, North East, for information and compliance.

14. Revision file be consigned to Record Room.

**ANNOUNCED IN THE OPEN
COURT ON 1st DECEMBER
2021**

**(RAMESH KUMAR)
PRINCIPAL DISTRICT AND SESSIONS JUDGE
NORTH EAST DISTRICT
KARKARDOOMA COURTS, DELHI**