

**SUPREME COURT OF INDIA**

M. Sambasiva Rao

Vs.

Union of India

Writ Petition No. 78 of 1972

(P. Jaganmohan Reddy and K. K. Mathew, JJ.)

05.05.1972

**JUDGEMENT**

**P. JAGANMOHAN REDDY, J.:-**

1. By this petition, the petitioner challenges his detention in committal proceedings in which 146 persons have been charged with various offences of conspiracy, murder, abduction, etc. The petitioner's complaint is that he and the other accused have not been produced before a magistrate for remand, as required by the Criminal Procedure Code, but have been kept in jails and the remand orders have been passed in their absence, which, according to the petitioner, is illegal. This contention, however, is not sustainable having regard to a Full Bench decision of seven Judges of this Court, reported in Raj Narain v. Superintendent, Central Jail, New Delhi 1971 (2) SCR 147 = (AIR 1971 SC 178) which by majority of five to two has held that the remand cannot be considered to be invalid merely because an accused has not been produced before the magistrate.

2. The other complaint of the petitioner is that the committal proceedings have been unduly delayed on some pretext or the other. The police have been giving excuses not only for his non-production

but also for not proceeding with the case. The learned advocate for the respondent State has taken us through the affidavit filed by the investigating officer in-charge of the case, and has pointed out the various difficulties in the committal proceedings being commenced. In any case, he has given an undertaking that the case of Kanu Sanyal and Patnaik who are required for trial in other States will be separated if they are not available before the 1st June, 1972, for the committal proceedings to go on. The State will request the Court to separate their cases and thereafter proceed with the committal proceedings. In any case, on behalf of the State, he undertakes that these proceedings will commence by the 21st June, 1972, and that steps to proceed expeditiously would be taken.

3. In view of the fact that the arrest and detention of the petitioner on the various charges is not illegal, this petition is dismissed.

Petition dismissed.