Mangilal Vyas

Vs

State of Rajasthan

Criminal Appeal No. 522-29 of 1987

(A.M. Ahmadi, Smt. M.S. Fathima Beevi JJ)

23.01.1990

JUDGMENT

FATHIMA BEEVI, J. –

1. These appeals by special leave are directed against the judgment and order dated January 29, 1987 of the high Court of Rajasthan, Jaipur Bench. The application filed by the appellant under Section 482 CrPC for quashing the criminal proceedings in eight cases pending against him for the offence under section 408 of the Indian Penal Code, were dismissed by the impugned judgment.

2. The appellant was the Manager of the Central Co-operative Bank, Jhunjhunu, during the period from February 1, 1961 to June 1963. After the special audit in the year 1963, prosecution was launched against the appellant for the embezzlement during this period. The appellant was alleged to have misappropriated various amounts received by him from different Sahkari Samities. The proceedings commenced in the year 1963 and eight cases are now pending trial. The inherent jurisdiction of the High Court was sought to be invoked for quashing these proceedings on the ground that the inordinate delay and the consequential harassment to the appellant required the exercise of such power to prevent the abuse of the process of the court and to secure the ends of justice. The High Court after detailed examination of the entire facts and the history of the pending proceedings as well as the causes for the delay, concluded that it is not at all in the interest of justice to quash the proceedings. the learned Judge affirmed :

> "It is highly desirable and expedient in the interest of co-operative movement and the larger embezzlement of amounts entrusted to him by various Sahkari Samities, prosecution should come to its legitimate end and the accused should not be allowed to abuse the process of court by delaying himself the criminal proceedings which he is now facing by his own conduct."

3. The learned counsel for the appellant submitted that the appellant had been prosecuted in 11 criminal cases for offences under Section 408 or 409 IPC, that the proceedings are pending for over 25 years, the prolongation of the trial without any fault on the part of the appellant amounts to prosecution of the appellant and, therefore, the proceedings should have been quashed by the High Court. It is maintained that in spite of passage of several years, no evidence worth the name has been recorded by the prosecutor. We have been taken through the various steps taken in each case and the nature of the evidence purported to have been collected.

4. We do not consider it necessary to narrate the detailed facts leading to the present appeals except to state that the trial in the pending cases has been unduly protracted due to various causes. It is no

doubt regrettable feature, but having regard to the nature of the allegations made and the availability of evidence in support of the prosecution, it is not expedient to terminate the proceedings at this stage, on account of lapse of time alone, by invoking the inherent power of the court. We think that the circumstances of the case only call for appropriate directions for the expeditious disposal of the pending proceedings and the law has to be allowed to take its own course to prevent miscarriage of justice.

5. The High Court has directed the trial court to proceed with the case against the appellant day-to-day and decide them expeditiously. We would however direct the trial court to dispose of the cases within a period not exceeding one year from the date of the receipt of the records. A copy of this judgment shall be forwarded to the trial court forthwith.

6. The appeals are dismissed accordingly subject to the above directions.

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