

State of Andhra Pradesh

Vs

P. V. Pavithran

Criminal Appeal No. 359 of 1989

(S. R. Pandian, K. Jayachandra Reddy JJ)

01.03.1990

JUDGMENT

S. RATNAVEL PANDIAN, J. -

1. The State of Andhra Pradesh represented by the Director, Anti-Corruption Bureau, Hyderabad has filed this criminal appeal challenging the correctness of the order dated July 29, 1988 of the High Court of Andhra Pradesh in Crime No. 7/ACB/Cr. II/84 dated March 8, 1984 on the file of the Special Judge for ACB & SPE quashing the first information report in exercise of its inherent powers under Section 482 of the Code of Criminal Procedure.

2. A few facts relevant to decide this case may be stated :

The respondent was selected to the Indian Police Service in the year 1953 and he worked in various capacities at different places. While he was working as Commissioner of Weights & Measures, Government of Andhra Pradesh, on a report dated March 7, 1984 submitted by the Deputy Superintendent of Police, Anti-Corruption Bureau, a case was registered against him on March 8, 1984 in Crime No. 7/ACB/Cr. II/84 under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act, 1947 on the allegations that while functioning as Commissioner of Police and alter as Vice-Chairman of Andhra Pradesh Housing Board during the years 1978-82, he indulged in corrupt practices and acquired immovable assets either in his name or in the name of his wife. The Anti-Corruption Bureau after completing its investigation submitted its report on April 22, 1987 to its Director-General who is turn sent the same to be government on September 17, 1988. The government accorded the necessary sanction for prosecution in GOMs Nos. 525 and 526 dated September 16, 1988. In the meantime, the respondent filed the criminal petition for quashing further proceedings pursuant to the registration of the first information report, inter alia, contending that there had been lull in the investigation for fairly long spell causing inordinate delay and that the prosecution had not filed its report contemplated under Section 173 CrPC till he filed the petition for quashing the proceedings in November 1987 though the case was registered even in March 1984.

3. The plea of the respondent was stoutly resisted by the appellant stating that the delay was occasioned by account of the dilatory tactics adopted by the respondent and the case was a complicated and time-consuming one.

4. The High Court has quashed the first information report on the ground that there was inordinate

delay in the investigation. Aggrieved by that judgment, the State has preferred this criminal appeal.

5. Mr. Madhava Reddy, learned senior counsel appearing on behalf of the appellant took an exception to the observation of the learned Single Judge of the High Court reading :

".... I hold that wherever there is an inordinate delay on the part of the investigating agency in completing investigation, the case merits quashing of the first information report even.

.... Generally, this Court will not quash the FIR because it amounts to stooing of investigation, but where there is an inordinate delay, the same is a ground to quash even the FIR."

and contended that the above observation is too wide a proposition and it would be detrimental to the prosecution in future under all circumstances, regardless of the reasons therefor.

6. Though we have decided to dispose of this appeal on some other ground, the submission of Mr. Madhava Reddy on the above extracted observation of the High Court makes it necessary to examine the question whether a mere delay in the investigation of a criminal proceeding will by itself serve as a sufficient ground for quashing the proceedings in pursuance of the registration of the case notwithstanding whatever may be the reasons for the delay. This question has come up for determination in a number of cases wherein this Court has examined the right of an accused for a speedy investigation and trial in a criminal case in the light of Article 21 of the Constitution of India.

7. There is no denying the fact that a lethargic and lackadaisical manner of investigation over a prolonged period makes an accused in a criminal proceeding to live every moment under extreme emotional and mental stress and strain and to remain always under a fear psychosis. Therefore, it is imperative that if investigation of a criminal proceeding staggers on with tardy pace due to the indolence or inefficiency of the investigating agency causing unreasonable and substantial delay resulting in grave prejudice or disadvantage to the accused, the court as the protector of the right and personal liberty of the citizen will step in and resort to the drastic remedy of quashing further proceedings in such investigation.

8. While so, there are offences of grave magnitude such as diabolical crimes of conspiracy or clandestine crimes committed by members of the underworld with their tentacles spread over various parts of the country or even abroad. The very nature of such offences would necessarily involve considerable time for unearthing the crimes and bringing the culprits to book. Therefore, it is not possible to formulate inflexible guidelines or rigid principles of uniform application for speedy investigation or to stipulate any arbitrary period of limitation within which investigation in a criminal case should be completed.

9. The determination of the question whether the accused has been deprived of a fair trial on account of delayed or protracted investigation would also, therefore, depend on various factors including whether such delay was unreasonably long or caused deliberately or intentionally to hamper the defence of the accused or whether such delay was inevitable in the nature of things or whether it was due to the dilatory tactics adopted by the accused. The court, in addition, has to consider whether such delay on the part of the investigating agency has caused grave prejudice or disadvantage to the accused.

10. The assessment of the above factors necessarily vary from case to case. It would, therefore, follow that no general and wide proposition of law can be formulated that whenever there is inordinate delay on the part of the investigating agency in completing the investigation, such delay, ipso facto, would provide ground for quashing the first information report or the proceedings arising therefrom.

11. Our above view is supported by a decision of this Court in Raghbir Singh v. State of Bihar ((1986) 4 SCC 481 : 1986 SCC (Cri) 511). Reference may also be had to Bell v. Director of Public Prosecutions of Jamaica ((1985) 2 All ER 585) and the article captioned "The Power of the Courts to stay a Criminal Prosecution". (1985 Cri L Rev 175)

12. It follows from the above observations that no general and wide proposition of law can be formulated that wherever there is any inordinate delay on the part of the investigating agency in completing the investigation, such delay is a ground to quash the FIR.

13. Reverting to the present case, the respondent was placed under suspension pending enquiry into certain irregularities in the purchase of land as pointed out in the earlier part of this judgment. The State Government on the basis of the enquiry report passed orders for stopping further action and directed reinstatement of the respondent into service with immediate effect by order dated September 5, 1984. Accordingly, he was reinstated and allowed to function as Controller, Weights, & Measures, Andhra Pradesh. However, by subsequent order dated July 5, 1985, the appellant (State Government) cancelled the aforesaid order dated September 5, 1984 and directed the respondent to show cause as to why the penalty of compulsory retirement should not be imposed on him. Thereupon, the respondent filed Writ Petition No. 10670 of 1985 before the High Court of Andhra Pradesh, seeking a writ of mandamus declaring the orders of the appellant contained in G.O. Rt. No. 2930 GA (SC.C) Department dated July 5, 1985 as arbitrary and unconstitutional, and consequently to set aside the same by holding that the appellant was bound to give effect to the contained in G.O. Rt. No. 4572, GA (SC.C) Department dated September 5, 1984. This writ petition was transferred to the Central Administrative Tribunal, Hyderabad Bench. The Tribunal allowed the petition holding that the impugned order in G.O. Rt. No. 2930 dated July 5, 1985 is illegal and beyond the powers of the State Government.

14. Aggrieved by the judgment of the Tribunal, the State of Andhra Pradesh preferred a Special Leave Petition (Civil) No. 405 of 1987 before this Court, and this Court by its order dated November 16, 1988 dismissed the same. The said order reads as follows :

"Having regard to the facts and circumstances of the case and specially in view of the facts that the respondent has retired from service on attaining the age of superannuation, we do not consider it a fit case for interference. It is accordingly dismissed."

15. Admittedly, the appellant notified the date of retirement of the respondent w.e.f. April 30, 1988 of GO Rt. No. 866 dated March 10, 1988. Accordingly, the respondent was allowed to retire peacefully from service on attaining the age of superannuation. The first information report and the consequent proceedings on the registration of the case were quashed by the High Court on July 29, 1988. Surprisingly, the appellant accorded sanction for prosecution in GOMs Nos. 525 and 526 dated September 16, 1988 i.e. after nearly 50 days of the quashing of the first information report.

16. In view of the above facts and circumstances and the various events following the suspension of

the respondent culminating in his being allowed to retire on attaining the age of superannuation, we are of the view that it is not a fit case for interference.

17. The appeal is accordingly dismissed.

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