

S.G. Nain

Vs

Union of India

Criminal Appeal No.737 of 1979

(Kuldip Singh, M. M. Punchhi JJ)

02.08.1991

JUDGMENT:-

1. The appellant before us is a Sub-Inspector in the Central Reserve Police Force. A complaint dated August 10, 1977 was filed against him before the Metropolitan Magistrate, New Delhi. It was alleged in the said complaint that while working as Manager of the Co-operative shop at CRPF centre he misappropriated large quantity of sugar which was meant for distribution amongst the members of the force. The complaint sought appellant's prosecution under S. 10(n) of the C.R.P.F. Act, 1949 which reads as under:-

"Every member of the Force who; (n) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline; shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to three months'pay, or with both."

2. At the enquiry before the Magistrate the scope of the complaint was enlarged by including an offence under S. 409, I.P.C. The appellant asked for quashing of the prosecution on the ground that necessary sanction under S. 197 of the Criminal Procedure Code was not obtained. The learned Magistrate by his order dated May 12, 1978 rejected the prayer. The revision against the said order was dismissed in limine by the High Court. This appeal via special leave petition is against the order of the learned Magistrate as upheld by the High Court.

3. It is difficult to get over the fact that the prosecution against the appellant is pending for almost fourteen years. Apart from mental agony it must have adversely affected him in his service career. In the facts of this case it is difficult rather impossible to arrange a fair trial to the appellant after such a long timelapse. It would be sheer waste of public time and money apart from causing harassment to the appellant. It is no doubt correct that this appeal has been pending in this Court for almost eleven years but that is not ground to permit this stale-prosecution to go on. It is not the state-action but its effect on the citizen which is relevant.

4. We have been taken through the complaint. We are not sure whether an offence under S. 409, I. P. C. even prima facie, is made out. In any case it is not necessary to go into the facts of the complaint or the question of applicability of S. 197, Cr. P. C. In the facts and circumstances of this case, we are of the view that it would not be in the interest of justice to permit to prosecution against the appellant to continue. We, therefore, quash the complaint dated August 10, 1977 and the prosecution against the appellant.

Order accordingly.

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