

Jayant Vitamins Ltd.

Vs

Chaitanyakumar and another

Criminal Appeal;I No. 508 of 1992

(S. R. Pandian, G. N. Ray JJ)

06.08.1992

JUDGEMENT

S. RATNAVEL PANDIAN, J.:-

1. This appeal is directed by M/s. Jayant Vitamins Ltd. canvassing the correctness of the order dated 12-4-90 passed by the High Court of Madhya Pradesh, Indore Bench in Misc. Criminal Case No. 42 of 1990 allowing the petition filed by the first respondent, Chaitanyakumar. The appellant-company preferred a complaint dated 14-11-1988 with reference to an incident in October, 1986 against the first respondent (arrayed as A-2) and four others before the police under Ss. 420, 408 read with S. 34, I.P.C. on the allegations of criminal conspiracy, cheating, criminal breach of trust. On the basis of the complaint, a case was registered on 5-11-1988 in Crime No. 286 of 1988 of Ratlam Police Station and the investigation proceeded with. On 5th and 6th November, 1988, a number of documents were seized. However, after 9 months it appears that the Investigating Officer arrived at a conclusion that as the allegations were found to be of internal dispute of the company and as there was no basic evidence, there was no hope of success and consequently he closed the investigation. On 23--9-1989, the Sub-Inspector of Ratlam Police Station was transferred. Thereafter, under the direction of the Superintendent of Police, further investigation in respect of the said offences was carried on which is admittedly not yet complete till date.

2. While the matter stood thus, the first respondent filed an application under S. 482, Cr, P.C. for quashing the investigation carried on in pursuance of the crime registered so far as he was concerned. The High Court after holdin. that the necessary ingredients to make out an offence under S. 415 have not been made and after making reference to the decisions of this Court in State of West Bengal v. Swapan Kumar, AIR 1982 SC 949 and R. P. Kapur v. State of Punjab, AIR 1960 SC 866 allowed the application and concluded thus:

"The investigation in pursuance of registration of Crime No. 286/'88 registered against the petitioner is quashed."

3. The appellant has preferred this appeal challenging the order. Mrs. Nalini Chidambaram, learned senior counsel appearing on behalf of the appellant attacked the Order of the High Court strenuously contending that the High Court has committed a grave error both on facts and law. According to, her, the observation of the High Court, "The allegation is that this amount was withdrawn by the petitioner" is factually incorrect and the High Court has misunderstood and misappreciated the allegations in the FIR which is given in a combined form consisting of various instances. Opposing

the above submission, Mr. N. Natarajan, learned senior counsel appearing on behalf of the respondents after making reference to the final report of the First Investigating Officer closing the investigation and the submission made by the counsel appearing for, the State before the High Court that the final report was proposed to be sent in the case, has vehemently urged that the High Court was justified in passing this impugned order and that at any rate, no interference is called for even on the ground of prolonged delay of investigation. Relying on a decision of this Court in State of U.P. v. R. K. Srivastava (1989) 4 SCC 59 : (AIR 1989 SC 2222), Mr. Natarajan submitted that in the absence of any specific allegations in the FIR to constitute the offences complained of, the investigation should not be allowed to be proceeded with, lest it would be only an abuse of the process of the Court.

4. We have carefully examined the submission of both the learned counsel. After going through the impugned order and other connected papers, we feel that the High Court was not justified in quashing the investigation which is still on its way. Needless to emphasise that the further investigation in the offence is legally permissible as contemplated by S. 173(8) of Criminal Procedure Code. The learned counsel appearing for the State when asked represents that the investigation is not yet complete and the State would come to a definite conclusion as to the culpability of the appellant only on the completion of the investigation. As repeatedly pointed out by various decisions of this Court that the investigation into an offence is a statutory function of the police and the superintence thereof is vested in the State Government and the Court is not justified without any compelling and justifiable reason to interfere with the investigation.

5. The decision in Srivastava's case (AIR 1989 SC 2222) relied upon by Mr. Natarajan has no application to the facts of the present case. As we feel that any other observation, if made by this Court, may affect either of the parties at any stage, we do not propose to deal with this matter any further. However, we are of the view that the High Court was not justified in quashing the investigation for the reasons mentioned in its order.

6. In the result, the impugned order is set aside and the appeal is allowed. Appeal allowed.

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