

SUPREME COURT OF INDIA

State of T.N.

Vs.

A.M. Vedachalam

(K.T. Thomas and R.P. Sethi JJ.)

15.01.2001

ORDER

1. Leave granted.

2. The prosecution proceedings against the respondent were quashed by the High Court mainly on the ground of the decision of this Court. Instead of quashing the proceedings the High Court could have directed the trial court to close the evidence thus for adduced against him and to go to the further steps in the matter. Instead of doing that the learned single judge of the High Court had delinked the respondent from the array of a number of other accused and quashed the case in respect of him alone.

3. Whatever be the merit of the contentions based on the decision of this Court in *Rajdeo Sharma v. State of Bihar*¹ learned counsel for the State invited our attention to the modification made by this Court in regard to the same decision by a subsequently rendered decision which is reported in *Rajdeo Sharma (II) v. State of Bihar*. By the modified order prosecution can legitimately claim a period of one more year for completing the prosecution evidence in respect of the cases referred to therein. By the impugned order the said benefit had been denied to the prosecution.

4. Mr. R. Venkataramani, learned senior counsel while opposing this prayer pointed out that the State took more than a year to reach the trial court in challenge of the impugned order. We have not found any delay for the State to file this special leave petition challenging the impugned order. As the application for copy of the order was filed right in time it was not on account of any latches(sic) on the part of the State that the certified copy was supplied to the State late.

5. In the result, we allow this appeal and set aside the impugned order. It is open to the trial court to close the evidence of prosecution, whether prosecution exhausts the list of witnesses or not, on the expiry of one year from the date of the receipt of the copy of this order. It is needless to point out that the time taken at the instance of the accused will be excluded from the said period of one year.

6. Mr. R. Venkataramani, learned senior counsel lastly submitted that the respondent has advanced in his age and has become physically disabled from attending the trial court. If that be so, we permit the respondent to move an application for exempting him from personal appearance. If any such application is made the same shall be allowed on the following conditions:

“1. A counsel on his behalf would be present in the court whenever his case is taken up.

2. He will not dispute his identity as the accused in the case.

3. He will be present in court when such presence is imperatively needed.”

7. The Appeal is disposed of accordingly.

¹1998 (7) SCC 507