SUPREME COURT OF INDIA

Anil Rai

Vs.

State of Bihar

Crl.A.No.389 of 1998

(K.T.Thomas J.)

06.08.2001

JUDGMENT

K.T.Thomas, J.

1. I read the judgment drafted by Brother Sethi J. I am in full agreement with the conclusions regarding the merits of the case. Regarding the aspect of delay in pronouncing judgments after conclusion of arguments I wish to add a few words on my own in support of all what Sethi J. has said about it.

2. In 1961 a learned judge of the Patna High Court expressed his anguish when a magistrate took nine months to pronounce a judgment. The words used by him for expressing his judicial wrath is the following:

> "The magistrate who cannot find time to write judgment within reasonable time after hearing arguments ought not do any judicial work at all. This Court strongly disapproves the magistrates making such a tremendous delay in the delivery of his judgments."

3. Now when two judges of the Patna High Court took two years for pronouncing a judgment after concluding arguments when the parties were languishing in jail, the counsel appearing in this Court in challenge of the said judgment asked in unison whether the exhortation made by the Patna High Court in 1961 is not intended to apply to the High Court.

4. A glimpse on the situation of the case as it remained in the High Court persuades me to feel that what happened in this case is only the tip of the iceberg. When the sessions court convicted nine persons on different counts including murder as per his judgment dated 4.5.1991, all the convicted persons filed appeals before the High Court of Patna. While remaining in jail the convicted persons waited for their turn to reach for the High Court to get time to hear their appeals. It took five years for such turn to reach. Advocates engaged by them then addressed arguments before the Division Bench and learned judges on conclusion of arguments on 23.8.1995, adjourned the appeals sine die for judgment. The convicted

persons while remaining in jail again waited for the D' day. The members of their family would naturally have been anxiously waiting for the same, but days and weeks and months and even years passed without anything happening from the Court. In the meanwhile, one of the convicted persons died in jail. By then even the anxiety of the other convicted persons would have died down and appeals would have been consigned to records. It is difficult to comprehend how the judges would have kept the details and the nuance of the arguments in their memory alive after the lapse of a long long period.

5. Unfortunately, the judges concerned had no concern until one of them reached near the date of his superannuation. They then reminded themselves of the obligation of delivering the judgment. It was thus that the impugned judgment had come out, at last, from torpidity.

6. If delay in pronouncing judgments occurred on the part of the judges of the subordinate judiciary the whip of the High Court studded with supervisory and administrative authority could be used and it had been used quite often to chide them and sometimes to take action against the erring judicial officers. But what happens when the High Court judges do not pronounce judgments after lapse of several months, and perhaps even years since completion of arguments? The Constitution did not provide anything in that area presumably because the architects of the Constitution believed that no High Court judge would cause such long and distressing delays. Such expectation of the makers of the Constitution remained unsullied during the early period of the post Constitution years. But unfortunately, the later years have shown slackness on the part of a few judges of the superior Courts in India with the result that once arguments in a lis concluded before them the records remain consigned to hibernation. Judges themselves normally forget the details of the facts and niceties of the legal points advanced. Sometimes the interval is so long that the judges forget even the fact that such a case is pending with them expecting judicial verdict. Though it is an unpleasant fact, it is a stark reality.

7. Should the situation continue to remain so helpless for all concerned. The Apex Court made an exhortation in 1976 through a judgment which is reported as *RC Sharma vs. UOI*[1] for expediting delivery of judgments. I too wish to repeat those words as follows:

> "Nevertheless an unreasonable delay between hearing of arguments and delivery of judgment, unless explained by exceptional or extraordinary circumstances, is highly undesirable even when written arguments are submitted. It is not unlikely that some points which the litigant considers important may have escaped notice. But, what is more important is that litigants must have complete confidence in the results of litigation. This confidence tends to be shaken if there is excessive delay between hearing of arguments and delivery of judgments."

8. Quarter of a century has elapsed thereafter but the situation, instead of improving has only worsened. We understand that many cases remain in area of "judgment reserved" for long periods. It is heartening that most of the judges of the High Courts are discharging their duties by expeditiously pronouncing judgments. But it is disheartening that a handful of few are unmindful of their obligation and the oath of office they have solemnly taken as they

cause such inordinate delay in pronouncing judgments. It is in the above background, after bestowing deep thoughts with a sense of commitment, that we have decided to chalk out some remedial measures to be mentioned in this judgment as instructions.

9. Sethi J. has enumerated them succinctly as follows:

> "i) The Chief Justices of the High Courts may issue appropriate directions to the Registry that in a case where the judgment is reserved and is pronounced later, a column be added in the judgment where, on the first page, after the cause-title date of reserving the judgment and date of pronouncing it be separately mentioned by the court officer concerned.
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> ii) That Chief Justices of the High Courts, on their administrative side, should direct the Court Officers/Readers of the various benches in the High Courts to furnish every month the list of cases in the matters where the judgments reserved are not pronounced within the period of that month.
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> iii) On noticing that after conclusion of the arguments the judgment is not pronounced within a period of two months the concerned Chief Justice shall draw the attention of the Bench concerned to the pending matter. The Chief Justice may also see the desirability of circulating the statement of such cases in which the judgments have not been pronounced within a period of six weeks from the date of conclusion of the arguments amongst the judges of the High Court for their information. Such communication be conveyed as confidential and in a sealed cover.
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> iv) Where a judgment is not pronounced within three months from the date of reserving judgment any of the parties in the case is permitted to file an application in the High Court with prayer for early judgment. Such application, as and when filed, shall be listed before the bench concerned within two days excluding the intervening holidays.
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> v) If the judgment, for any reason, is not pronounced within a period of six months any of the parties of the said lis shall be entitled to move an application before the Chief justice of the High Court with a prayer to withdraw the said case and to make it over to any other bench for fresh arguments. It is open to the Chief Justice to grant the said prayer or to pass any other order as he deems fit in the circumstances."

10. I have chosen to reiterate the above instructions in this separate judgment only for providing added emphasis to them. I make it clear that if the Chief Justice of a High Court thinks that more effective measures can be evolved by him for slashing down the interval between conclusion of arguments and delivery of judgment in that particular court, it is open to him to do so as substitute for the measures suggested by us here-in-before. But until such measures are evolved by the Chief justice of the concerned High Court we expect that the measures suggested above would hold the field. I may also mention that the above-

enumerated measures are intended to remain only until such time as the Parliament would enact measures to deal with this problem.

11. With the above words I respectfully concur with all what brother Sethi J. has said in his judgment.

[1] *[1976(3) SCC 574]*