

**Naresh Kumar Etc. Vs. State**

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**Court :** Delhi

**Decided On :** Aug-09-1990

**Reported in :** 1990RLR544

**Judge :** M.K. Chawla, J.

**Acts :** [Constitution of India](#) - Article 21

**Appeal No. :** Civil Miscellaneous (Main) Appeal No. 399 of 1990

**Appellant :** Naresh Kumar Etc.

**Respondent :** State

**Advocate for Pet/Ap. :** K.B. Andley and; M.S. Siddique, Advs

**Judgement :**

**M.K. Chawla, J.**

(1) In this petition u/S. 482 of : the Cr. P.C, the petitioners are seeking the quashing of all the 12 challans initiated against them on the complaint of one Ved Parkash in case F.I.R. No. 822/77, P.S. Lahori Gate, u/S. 420/120-B, I.P.C. and pending in the Court of C.M.M. Delhi.

(2) In order to appreciate contention of the learned counsel for petitioners, it is relevant to keep in, mind salient features of the complaint and tbs progress made

in the said case,

(3) On 28.1.77 Ved Parkash filed a written complaint in the Lahori Gate P. S. alleging therein that the present petitioners i e. Naresh Kumar and Jai Prakash introduced to him one G.R. Sbarma, a proprietor of a firm known as Sharma Yarn Centre, Satyawati Nagar, Delhi. The petitioners assured that Shri G.R. Sharma has a flourishing business in the sale and purchase of cotton yarn and is a man of status, having a landed property and assessed to income tax. Believing the assurances given by the petitioners, the complainant started dealing with Shri G.R. Sbarma. To start with, Shri G.R. Sharma made cash payments against the purchase of cotton bales. He sometimes issued post-dated cheques which were duly honoured. In the course of the dealings with the complainant, Shri Sharma also came in contact with other dealers of the yarn, in the market and started purchasing yarn from them also. After sometime Shri Sharma purchased two bales of yarn from the complainant and issued post-dated cheques which on presentation were dishonoured. On enquiries, the complainant came to know that Shri Sharma has cheated number of persons and now his whereabouts are not known.

(4) On the basis of the complaint, a case u/S. 420/120-B, Indian Penal Code . was registered at P.S. Lahori Gate on 13.12.77. After completing the investigation, challans were filed in the court of the C.M M , Delhi. The said cases are still pending.

(5) The contention of the learned counsel for the petitioner is that during the course of investigation 22 bales of yarn Along with other bales were seized by the police from the factory premises of the petitioners, on the ground that those were purchased by them from the market on credit against which no payments have been made. The submission is that during this period the petitioners filed a civil suit for the recovery of these 22 bales of yarn in which the complainant Along with others claimants were arrayed as defendants. They were duly served and sought time to file w/s but in spite of repeated adjournments, none of them filed the w/s nor cared to put in appearance in the court below. They were proceeded ex parte and a decree for the possession of 22 bales of yarn has been passed in favor of

the petitioners and those bales have since been delivered to them by the Police,

(6) The next submission of the learned counsel is that in spite of various orders of this Court that the cases be disposed of within a time bound schedule no effort or attempt has been made by the court below to record the evidence of the prosecution witnesses. Till date, out of 30 witnesses cited in the complaint the statement of only 18 have been recorded in a period of near about 13 years'of the pendency of the complaint. This long delay by itself is sufficient to quash the proceedings pending before C.M M. Delhi. On these submissions, the contention is that no useful purpose would be served to continue with the complaint.

(7) I have carefully perused the complaint and the judgment of the court below whereby the petitioners were delivered 22 bales of yarn holding them to be the owners, of the same. It is not disputed that a period of near about; 13 years has elapsed and no progress, worth the name, has been made in the case. On two occasions R.N. Aggarwal, J. passed specific orders, one in Cri R. No. 26/1979 re : Suresh Kumar & Co. vs. Naresh Kumar directing the Cmm to decide the case arising out of Fir No. 822/77 within six months. The subsequent order of Aggarwal, J. dt. 11.2.81 reads :

'I have gone through the orders passed in the case since 22.2.1980 and I am surprised to find that no progress has been made in the case and the case has been adjourned from, time to time on one ground or the other This depicts a very sorry state of affairs. The C.M.M. should try to finish the case, if possible, within 6 months.'

Subsequently also the case was listed for prosecution evidence oft numbers of dates, but as stated earlier the State does not care to summon the witnesses nor made any attempt 'to bring the witnesses on the dates of hearing. It is strange that even the complainant has not been examined to support the prosecution version. In fact no worth while evidence has, been recorded and the case is still pending decision.

(8) In view of the fact that by an order of the civil court the petitioners have been declared the rightful owners of the 22 bales of yarn which were the subject matter

of the criminal complaint, I think no useful purpose would be served to keep the complaint pending in the court of C.M.M. It is not disputed that neither the complainant nor any of the other parties alleged to have been cheated by the petitioners have filed any appeal or revision against the order of the civil court dated 16.2.79. If the substrata of the prosecution case goes, nothing remains to be gone into.

(9) Even otherwise keeping in view the latest trend of judicial pronouncements, and having regard to the nature of offence involving petty amount, there is enormous delay of near about 13 years in proceeding with the criminal prosecution of the petitioners. Quick justice is a sine qua non of Art. 21 of the [Constitution of India](#). Keeping a person in suspended animation for 13 years, without any plausible excuse, cannot be said to be with the spirit of the procedure established by law. It is thereforee just and fair and in accordance with equity to direct that the trial or prosecution of the petitioners shall not proceed any further. Proceedings Quashed.

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