

Jagdish Chander Vs. State of Rajasthan

Jagdish Chander Vs. State of Rajasthan

SooperKanoon Citation : sooperkanoon.com/763963

Court : Rajasthan

Decided On : Mar-04-1998

Reported in : 1998CriLJ2197

Judge : A.S. Godara, J.

Acts : [Prevention of Food Adulteration Act, 1954](#) - Sections 7 and 16

Appeal No. : Cri. Misc. Petn. No. 298 of 1997

Appellant : Jagdish Chander

Respondent : State of Rajasthan

Advocate for Def. : S.K. Vyas, Public Prosecutor

Advocate for Pet/Ap. : Manish Shishodia, Adv.

Judgement :

ORDER

A.S. Godara, J.

1. This criminal misc. petition has been preferred by the accused-petitioner with a request that criminal proceedings pending against the accused-petitioner in Criminal Case No. 521 85 registered and pending with the Chief Judicial Magistrate, Bhilwara and, subsequently, ordered to be transferred to the Court of

Addl. Chief Judicial Magistrate, Bhilwara be quashed.

2. Briefly stated, the facts of the present petition are that the Food Inspector, Bhilwara filed a criminal complaint against the accused-petitioner for alleged commission of offence under Section 7/16 of the [Prevention of Food Adulteration Act, 1954](#) before the Court of Chief Judicial Magistrate, Bhilwara on 20-5-1985 and, subsequently, on appearance of the accused, it was on 30-4-1986 that the prosecution was ordered to examine its witnesses at the pre-charge stage but, however, on 12-11 -1986, the particulars and statements of allegations were explained and read over to the accused-petitioner whose plea was recorded and on the face of denial of commission of any offence, the prosecution was ordered to examine its witnesses beginning from 24-2-1987 and, after as many as 26 adjournments, lastly, it was on 16-3-1993 that statements of the accused were recorded and, thereafter, since' the accused-petitioner did not want to adduce any defence evidence and hence the case was pending for hearing final arguments before its disposal and the case went on being adjourned time and again and, meanwhile, the prosecution yet filed a fresh application for completion of the trial summarily and the application was pending from 20-9-1993 to 23-7-1996 before the Chief Judicial Magistrate and, it was on 23-7-1996 itself that without disposal of the application filed by the prosecution, the case was abruptly transferred to the Court of Addl. Chief Judicial Magistrate whereat the same was pending for hearing and disposal till 8-11-1996 and hence this petition.

3. I have heard the learned counsel for the petitioner as well as the learned P.P. and have also been taken through the various order sheets regarding the proceedings beginning from 20-5-1985 to 8-11-1996 numbering not less than as many as 15 adjournments.

4. The learned counsel for the petitioner submits that the sample of groundnut oil was taken as early as on 2-1-1985 and 13 years' period has elapsed since then and the Chief Judicial Magistrate, Bhilwara beginning from 20-5-1985 to 23-7-1996 when without any rhyme or reason the case was ordered to be transferred to the Court of Addl. Chief Judicial Magistrate and the prosecution evidence having been closed on 12-1-1993, though the accused was examined on 16-3-1993 but,

subsequent thereto, on not less than 18 adjournments the learned Chief Judicial Magistrate presided over the trial Court did not conduct any substantial proceedings and hence the case and so also its trial were handled and conducted with a rare callousness, indifferent and incompetence and, meanwhile, the prosecution itself seized an opportunity to have yet moved an application before the Chief Judicial Magistrate on 20-3-1993 which does not appear to have been replied to even after repeated adjournments and, lastly, without hearing the parties and proceeding to dispose of the application and the case itself, on 23-7-1996 the case was ordered to be transferred to the Addl. Chief Judicial Magistrate and so the accused-petitioner has been forced to face this trial extending well over a period of 13 years without any fault on his part and, therefore, it has been submitted that it has resulted in invading the constitutional right vesting under Art. 21 of the Constitution for speedy trial warranting quashing of the criminal proceedings pending against the petitioner.

5. The learned counsel for the petitioner relied on the decisions rendered in Santosh De v. Archana Guha, AIR 1994 SC 1229 : 1994 Cri LJ 1975, Hemraj v. State of Rajasthan, 1995 Cri LR (Raj) 24, Pradeep Kumar v. State of Rajasthan, 1997 Cri LR (Raj) 87, Anilkumar v. State of Rajasthan, 1997 Cri LR (Raj) 699, Ganga Ram v. State of Rajasthan, (1994) 3 WLC (Raj) 156 : 1994 Cri LJ 2125 (Raj) and Shahpura Kriya, Vikray Sahakari Samiti, Shahpuraiv, State of Rajasthan S.B. Cr. Misc. Petition No. 340/97 decided on 19-5-1997 by this Court, to supplement his arguments in support of his contentions.

6. However, the learned P.P. has opposed this petition.

7. After going through the proceedings spreading over not less than 56 adjournments so recorded in the proceedings of the trial Court beginning from 20-5-1985 to 8-11 -1996 specially the first 54 adjournments granted by the Chief Judicial Magistrate, Bhilwara which clearly shows that the prosecution took about 36 adjournments to complete its evidence and, lastly, the Presiding Officer was compelled to have closed his evidence as late as on 12-1-1993 resulting in exercise of the accused-petitioner specially on 16-3-1993 but the prosecution did not feel yet satisfied and an application was moved belatedly on 20-9-1993 which

was so pending even at the time of lodging of this petition before this Court and, lastly, the Chief Judicial Magistrate did not think it appropriate or within his competence to have disposed of the case finally' before proceeding to dispose of this application of the prosecution as well pending disposal for more than 12 hearings and, lastly, without any good grounds in support thereof, the same having been abruptly transferred to the Court of Addl. Chief Judicial Magistrate whereat the case is yet to see its end.

8. These facts speak volumes about the incompetence, indifferent and callousness with which these economic offences are being dealt with by the trial Courts. Besides, the District and Sessions Judges concerned, who exercise administration as well as the judicial control over the subordinate magistracy are also found to be quite indifferent to those grossly misuseage proceedings conducted by the trial Courts conveniently loosing sight of such cases at the time of their annual inspections. This all leads to the irresistible conclusion that the accused-petitioner cannot be left to be dealt with so leisurely, indifferently and in a casual manner though the conduct of the subordinate magistracy has resulted in apparent failure of justice defeating social cause enabling the accused-persons to take advantage of the callousness, indifferent and incompetence of the subordinate magistracy but, this all, cannot be allowed to proceed further in perpetuity compelling the accused-petitioner to suffer, however, physically, financially and socially, on the face of guaranteed right of life and liberty under Art. 21 of the Constitution, every accused though not entitled to claim immunity from commission of offences, but, at the same time, an expeditious trial, not being prolonged indefinitely, when its end is not in sight even after a long period of 13 years and, therefore, in view of the precedents that are referred to in the decisions relied upon by the learned counsel for the petitioner, at present, in the totality of facts and circumstances, there is no escape from arriving at the conclusion that the conduct of the prosecution and so also the Presiding Officer of the trial Court specially succeeding Chief Judicial Magistrate presiding over the Court of the Chief Judicial Magistrate has left no alternative but to accept this petition and in case the trial is yet allowed to proceed further, there being no end of the same in the foreseeable future and it is nothing but an abuse of process of the Court resulting in manifest injustice to the accused-petitioner in gross violation and invading constitutional right of expeditious trial

guaranteed to the accused-petitioner and hence, this petition is well merited and, presently, warrants its acceptance.

9. However, before parting with it, it is enjoined upon the District and Sessions Judge concerned to conduct a factual enquiry and find out as to who is/are the Presiding Officer(s), whose conduct has enabled the accused-petitioner to benefit out of this order in the aforesaid facts and circumstances and to submit his report through the Registrar General to Hon'ble the Chief Justice for initiation of action, if any.

10. On the basis of above discussion, this petition is hereby accepted and the criminal proceedings pending in Criminal Case No. 52/85 originally instituted against the accused-petitioner in the Court of Chief Judicial Magistrate, Bhilwara and subsequently transferred to the Court of Addl. Chief Judicial Magistrate, Bhilwara are hereby quashed and, at the same time, it is ordered that accused-petitioner stands discharged of his bail bonds entered into with the trial Court.

11. This petition along with its connected stay petition stands disposed of accordingly.