

Ramesh Chand Vs. State of Rajasthan

Ramesh Chand Vs. State of Rajasthan

SooperKanoon Citation : sooperkanoon.com/772608

Court : Rajasthan

Decided On : Apr-12-2001

Reported in : 2007(3)WLN248

Judge : B.J. Shethna, J.

Appeal No. : S.B. Criminal Misc. Petition No. 4 of 2001

Appellant : Ramesh Chand

Respondent : State of Rajasthan

Disposition : Petition dismissed

Judgement :

B.J. Shethna, J.

1. By way of this petition, the petitioner has prayed that the proceedings pending before the learned Additional Chief Judicial Magistrate No.2, Udaipur in case No. 311/1994 be quashed and the complaint filed by the Food Inspector be also quashed.

2. On 10.9.1987, the Food Inspector took sample of 'Chilli Powder' from the shop of the petitioner. It was sent to the Public Analyst on 11.9.1987. The report dated 15.10.1987 shows that it was adulterated. Sanction to prosecute was given on 17.12.1987 and the complaint was filed on 14.1.1988 before before the Court.

Summons were ordered to be issued on that day by the Court. On 25.1.1988, an application was submitted by the accused petitioner for sending another sample to the Central Food Laboratory and accordingly, another sample was sent on 30.5.1989, On 13.1.1991, the case was tried as a summary proceedings and the substance of accusation was explained to the accused.

3. With the change of Presiding Officers, the case was ordered de-novo trial for the fourth time on 15.3.2000, therefore, this petition was filed on 9.8.2000 Under Section 482 Cr. P.C. with the prayer to quash the said proceedings and dismissed the complaint.

4. It was submitted by Mr. Gupta that the petitioner is a petty trader and for all these period of more than 14 years, there was a hanging sword on his head and he has sufficiently suffered by remaining present before the trial court on number of occasions. He submitted that for no fault of his, he is made to suffer and trial is delayed for all these years. He, therefore, submitted that there is a clear breach of Articles 20 and 21 of the Constitution, therefore, the proceedings be quashed and the complaint be dismissed.

5. It is true that after taking the sample of Chilli Powder from his shop, the trial could not be completed even after expiry of period of more than 14 years. It is also true that the petitioner accused is not responsible for delaying the trial. At the same time, even the prosecution is also not at fault because of the frequent transfers of Presiding Officers of the Court, the trial could not be completed for all these years. The Presiding Officers, who are trying the cases as summary trial, they should give top priority to such cases and try to dispose of such cases as early as possible so that with their transfer, de-novo trial could be avoided.

6. Learned P.P. Mr. Vyas submitted that in the instant case, the sample of Chilli Powder collected by the Food Inspector was found to be adulterated. Such food substance is injurious to health, therefore, merely because there was a delay of 14 years in conclusion of the trial, the proceedings pending before the trial Court against the accused should not be quashed.

7. There is a lot of force and substance in the submission made by learned P.P. In such type of cases, only on the ground of delay, proceedings should not be quashed. It may be stated that last time i.e. on 15.3.2000, when the order of de-novo trial was passed, the petitioner preferred to file this petition before this Court on 9.8.2000 and the same is pending before this Court since long without any interim order. We do not know at what stage, the matter is before the trial court.

8. Under the circumstances, after a period of more than one year of de-novo trial, it would not be possible to entertain this petition.

9. In view of the above discussion, this petition fails and is dismissed.

10. However, the learned trial court is directed to decide the case pending before it as early as possible.

11. Before parting, I must state that the Registrar General of this Court may send the copy of this order with clear instructions to all the trial Judges to decide all the summary proceedings pending before them at the earliest by giving top priority to such cases so that such type of orders Of de-novo trial are avoided. In spite of this, if the Presiding Officer failed to decide the summary proceedings, then it would be treated as mis-conduct for which they can suitably dealt with.

12. With these observations, this petition is dismissed. Stay petition is also dismissed.

13. A copy of this order be circulated to all the trial Courts including the Presiding Officer who is trying this case.