

**D.R. Devarajan and ors. Vs. the State**

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**Court :** Chennai

**Decided On :** Nov-26-1984

**Reported in :** 1985CriLJ1614

**Judge :** S.A. Kader, J.

**Appellant :** D.R. Devarajan and ors.

**Respondent :** The State

**Judgement :**

ORDER

**S.A. Kader, J.**

1. The petitions have been filed under Section 482 of the Code of Criminal Procedure to quash the proceedings in C.C. 'No. 175 of 1984 on the file of the Sub-Divisional Judicial Magistrate, Tirupathur. The Accused I 52, 13, 39 and 3 are the petitioners in these petitions respectively.

2. The respondent the Inspector of Police, Crime Branch C.I.D., Vellore, has filed this Criminal prosecution against 86 persons for offences under Sections 120-B, 419, 420, 467, 468 and 471 read with Section 109 of the Indian Penal Code. The charges relate to the grant of loans and advances by the Government to the ryots in Tiruppathur Taluk of North Arcot District under the Intensive Manuring Scheme and Groundnut Export Orientation Programme between 1968 and 1972. The loans

were granted in the form of chemical fertilizers on the understanding that the value of the same should be repaid in a lump sum at the time of the harvest. Similar loans were also advanced in cash for growing vegetables. The Grama Sevaks and the Agricultural Assistants have to prepare the loan order proposals after verifying the correctness of the information contained in the applications given by ryots regarding the extent of land owned by them and the crops raised by them with reference to- the village chitta and adangol and also by inspecting the lands. The Extension Officer (Agriculture) and the Special Deputy Agricultural Officer have to scrutinise and recommend the proposals. The Block Development Officer, Special Deputy Tahsildar and the Special District Agricultural Officer have to sanction the loans after verifying the correctness of the particulars contained in the proposal, and disburse the loan to the applicants. At the relevant point of time, the accused 1,2,18 and 70 were Village Officers; the accused 3 and 39 were Grama Sevaks; the accused 6, 9, 10 and 29 were Agricultural Assistants; the accused 5, 7 and 5 (?) were Deputy Agricultural Officers; the accused 4 and 57 were Extension Officers; the accused 12 and 11 were Deputy Tahsildar; the accused 13, 34, 40, 44 and 52 were Block Development Officers and the accused 14 to 17 were Special District Agricultural Officers and the other accused were private individuals. It is the case of the prosecution that the accused entered into a criminal conspiracy to do or cause to be done certain illegal acts, to wit, to cheat the Government by false representation and obtain the aforesaid loans and, in pursuance of the said conspiracy, committed various acts of malfeasance and misfeasance to the extent of about one lakh of rupees by means of false declaration, furnishing false certificates regarding possession of the land, the nature of crops, the title to the properties, forged and used forged documents as genuine or having reason to believe the same to be forged and by impersonation and thereby cheated the Government to the extent of Rs. 1,00,000/-. In 1973, the matter came to light and the Collector of North Arcot at Vellore made a detailed enquiry and laid a complaint before the police on 6-4-1974. It was registered as Cr. No. 93/74 of Kanhili police station in Tiruppattur Taluk. After completion of investigation, the charge-sheet was filed by the Inspector of Police (the respondent) before the Sub-Divisional Judicial Magistrate, Tirupattur on 4-6-1983 against 86 accused including the petitioners herein and it has been taken on file as

C.C. No. 175 of 1984. As many as 86 witnesses have been cited and 813 documents have been filed into Court. It is to quash this proceeding the accused 3, 13, 39 and 52 have come forward with these petitions.

3. The ground of attack against the prosecution is the inordinate delay in preferring the complaint and in the conduct of the investigation. The charges relate to the years' between 1968 and 1972. But, the complaint has been given only on 6-4-1974 and the charge-sheet has been filed after 9 years of investigation. It is, therefore, contended by the petitioners that they are deeply prejudiced by this extraordinary delay and the prosecution must, therefore be quashed.

4. The Inspector of Police, Crime Branch, C.I.D., Vellore, has filed a counter-affidavit contending that the investigating officer had to examine about 2000 documents, collect the signatures and send about 3700 documents for the opinion of the expert and obtain sanction in respect of certain public servants and hence the delay.

5. The prosecution is with reference to certain matters which took place between 1968 and 1972. But, the offence came to light only in 1973 and the Collector, after making elaborate preliminary enquiries, has filed the complaint before the police on 6-4-1974. It cannot, therefore, be said that there was any delay in the filing of the first information report. But, the subsequent delay in investigation, which has taken nearly nine years and two months, is a matter of grave concern in the administration of justice. We have to see whether this delay has been properly explained and whether the accused are prejudiced thereby and deprived of a reasonable opportunity to defend the charges. \*

6. The first information report has been laid on 6-4-1974 and the charge-sheet on 4-6-1983 covering a period of 9 years, 1 month and 28 days. However voluminous the case may be, however complicated the questions involved may be, the period of 9 years taken for investigating the case is rather astounding and is a sad reflection on the efficiency of the investigating machinery of the State. The contention, that innumerable witnesses had to be examined, that a large number of documents had to be verified and sent for the opinion of the expert and that sanction had to be obtained in respect of some of the accused, is not a proper

explanation for this inordinate delay of 9 years and 2 months. The matter relates to the grant of loans and advances to the ryots of Badhanavodi village group in Tiruppattur Taluk of North Arcot District and the witnesses are confined to this village group or, at any rate, to Tiruppattur Taluk. The documents relate to Kandili Block Office and Tiruppattur Taluk Office and the, Tiruppattur District Agricultural Office. The explanation, that it took nine years to examine witnesses in the area and peruse the documents available there itself, is far from convincing. From what it is represented by the learned Public Prosecutor, it seems that the investigation has been conducted by the successive Inspectors of police, not one of them being deputed exclusively for this work. The first information report, given by the Collector of North Arcot at Vellore after detailed preliminary enquiry, itself runs into several pages and the magnitude of the work could have been easily gauged at that time and yet, no attempt has been made to place the matter in the hands of a special team for investigation. It is obvious that the investigation has proceeded in the usual lethargic manner at the convenience of the investigating Inspectors and the charge-sheet has been filed, luckily, within a decade. I have, therefore, no hesitation in holding that the delay of over 9 years in this case of investigation is unreasonable, unexplained and inexplicable,

7. It now remains to be seen whether the accused are prejudiced thereby and are deprived of a reasonable opportunity to meet the accusations. In the unreported decision in *Ramanarayanan v. Food Corporation of India* (W. A. No. 246 of 1982)\* a Bench of this Court consisting of Gokulakrishnan and Nainar Sundaram, JJ., had occasion to deal with the question of inordinate delay in the conduct of disciplinary proceedings against the petitioner. The charge memo was served on 22-2-1977 and there was no progress till the filing of the Writ Petition No. 10691 of 1981 in 1981. The learned Judges observed:

In the present case, the delay during the relevant periods was inordinate and stands unexplained. The question is as to how far the petitioner was put to prejudice on account of the delay. On the aspect of prejudice, we have to uphold the contentions put forth on behalf of the petitioner. The charge relates to the period 1975-76. At the time when the petitioner approached this Court by way of writ petition, more than six years had lapsed. Even if the enquiry is to be

prosecuted in right earnest at this juncture and is to be completed after the examination of the witnesses cited amounting to 22, the petitioner will definitely be called upon to enter in his defence and to adduce his evidence. As contended by the learned Counsel for the petitioner, it will be impossible for the Petitioner to remember the identity of witnesses whom he could summon to appear before the enquiry authority to support his case. Even if he could summon their presence, it would be a doubtful proposition whether they would be in a position to remember what happened more than six years back and help him in his defence. Furthermore, the petitioner may not be in a position to effectively cross-examine the witnesses to be examined on the side of the Department in support of the charges. Practically it would be doubtful proposition that either the prosecution witnesses or the defence witnesses would be in a position to remember the facts of the case and advance the case of either the Department or the petitioner. These are practical features which we cannot lose sight of and there is force in the contention put forth by the learned Counsel for the petitioner that on account of the inordinate delay, which remains unexplained, the petitioner must be held to have been put to prejudice and the further prosecution of the charges in the disciplinary action would cause him great prejudice. This is not a case wherein the prosecution rests upon documentary evidence alone and as stated above, as many as 22 witnesses are to speak against the petitioner. It is clear from the facts of the case that the prosecution depends mostly upon the oral testimony of these who are responsible in offering commission and such oral evidence, considering the lapse of time would practically amount to a fiction and no credibility could be attached to such oral evidence. The repercussion of unexplained delay when prejudice has been made out will be the same both in the case of initiation of disciplinary action and also in the case of prosecution and completion of the disciplinary action. Under these circumstances and on the facts and circumstances disclosed in the present case, we have to hold, differing from the learned single Judge, that the unexplained delay, as spoken against the Department, will constitute a denial of a reasonable opportunity to the petitioner to defend himself and that it would amount to violation of the principles of natural justice and as such, the impugned charge memo must be struck down on this ground alone.

The above observations, with which I respectfully agree, apply on all fours to a case of criminal prosecution in a Court of law. The charges in the case before me relate to the period between 1968 and 1972 in respect of loans and advances granted to several ryots on the basis of false declarations, false particulars and false certificates and also by impersonation. More than 12 years have passed since then and it is impossible for any one, at this distance of time, to remember what happened before 1972, identify the witnesses, cross-examine them and put forth their case effectively. The case of the prosecution depends mostly upon oral evidence and as many as 86 witnesses have been cited. After this long lapse of time, it is difficult to believe how these witnesses could remember things which happened more than a decade ago. The result is, the witnesses whether for the prosecution or for the defence could speak, so late in the day, not to what they saw or heard but only to what they should persuade themselves to believe that they saw or heard and this would be a total travesty of justice. No credibility could be attached to their testimony. In the circumstances, the accused must be held to be seriously prejudiced in the defence and to be deeply deprived of a reasonable opportunity to defend themselves on account of the inordinate and inexplicable delay. As pointed out by the Bench, in the aforesaid decision, this would amount to violation of the principles of natural justice and the prosecution must, therefore, be struck down.

8. In the result, the petitions are allowed and the entire proceedings in C.C. No. 175 of 1984 on the file of the Sub-Divisional Judicial Magistrate, Tiruppattur are quashed.

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