State Of Bihar vs Uma Shankar Ketriwal & Others on 18 December, 1980

Equivalent citations: 1981 AIR 641, 1981 SCR (2) 402, AIR 1981 SUPREME COURT 641, 1981 (1) SCC 75, 1981 UP CRIC 79, 1981 CRIAPPR(SC) 68, 1981 SCC(CRI) 108, 1981 MADLW 107, 1981 (2) SCR 402, 1981 BLJR 103, 1981 BLJR 109, 1981 UJ (SC) 56, 1981 MADLW (CRI) 107, (1981) MAD LJ(CRI) 488, (1981) 83 PUN LR 194, (1981) 2 SCJ 176, (1981) 7 ALL LR 123, (1981) BLJ 103, (1981) 8 CRILT 23, 1981 CRI. L. J. 159, (1981) 2 SCR 402 (SC), (1982) PAT LJR 20, 1981 CRILR(SC MAH GUJ) 47

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Bench: A.D. Koshal, Syed Murtaza Fazalali

PETITIONER:
STATE OF BIHAR

Vs.

RESPONDENT:
UMA SHANKAR KETRIWAL & OTHERS

DATE OF JUDGMENT18/12/1980

BENCH:
KOSHAL, A.D.
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KOSHAL, A.D.
FAZALALI, SYED MURTAZA

CITATION:
1981 AIR 641 1981 SCR (2) 402
1981 SCC (1) 75
CITATOR INFO :
RF 1992 SC1701 (30)

ACT:
Criminal trial-Prosecution commenced in the year 1963-Continuing in 1979-High Court quashing proceedings as an abuse of the process of court- Order whether valid-Limit to period for criminal litigation to continue at trial stage-Necessity of.

HEADNOTE:

A case was initiated through a report lodged with the police on the 9th April, 1960 that the respondent's firm had misappropriated a large quantity of G. C. Sheets meant for distribution to quota and sub-quota holders. After investigation, a police report was submitted on the 23rd December 1962 to the Magistrate, who took cognizance of the case on the 25th January, 1963. Charges were framed against the respondents under section 7 of the Essential Commodities Act on 15th September, 1967. The progress of the case thereafter was very tardy.

In 1979, the respondents made two applications to the High Court for quashing the proceedings initiated against them. The High Court allowed them on the ground that the police report did not disclose any offence against any of the respondents and that as the prosecution commenced in the year 1963 was still going on in 1979, it would be an abuse of the process of the Court to allow the prosecution to continue any further.

In the appeal by the State to this Court, it was contended that the finding about the police report not disclosing any offence was erroneous and that the delay in the conclusion of the trial was not a justification for quashing the proceedings.

Dismissing the appeal

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HELD: 1. There has to be a limit to the period for which criminal litigation is allowed to go on at the trial stage. [404D]

2. The present case is not a proper one for interference inspite of the fact that the allegations disclose the commission of an offence which is quite serious. [404E]

In the instant case the trial has not made much headway even though no less than 20 years have gone by. Such protraction itself means considerable harassment to the accused not only monetarily but also by way of constant attention to the case and repeated appearances in court, apart from anxiety. [404C-D]

JUDGMENT:

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 699 of 1980.

Appeal by Special Leave from the Judgment and Order dated 6-11-1979 of Patna High Court in Criminal Misc. Nos. 3679 and 3913/79.

K. G. Bhagat and D. Goburdhan for the Appellant. S. C. Misra, M. P. Jha and A. K. Jha for the Respondent.

The Judgment of the Court was delivered by KOSHAL, J. This is an appeal by special leave against an order dated the 6th November, 1979 of a learned Single Judge of the Patna High Court quashing the entire proceedings in a criminal case against the 7 respondents who were facing a charge under section 7 of the Essential Commodities Act in the Court of a Magistrate at Bhagalpur.

2. The case was initiated through a report lodged with the police on the 9th of April 1960 with the allegation that the respondents' firm which held a licence for dealing in iron and steel had misappropriated a large quantity of G.C. sheets meant for distribution to quota and sub-quota holders. After investigation a police report was submitted on the 23rd December 1962 to a Bhagalpur Magistrate who took cognizance of the case on the 25th January 1963. However, the charge against the respondents was framed as late as 15th September 1967 and since then the progress of the case was very tardy as the orders passed therein were challenged in appeals or on the revisional side from time to time. Ultimately in 1979 the respondents made two applications to the High Court praying that the proceedings against them be quashed and the same were accepted through the impugned order. The High Court held for various reasons that the police report did not disclose any offence against any of the respondents. Another reason for accepting the two applications may be stated in the words of the learned Single Judge:

> "Another important aspect of the matter is that the prosecution commenced in the year 1963 and it is still going on in 1979. It is true that the accused persons themselves are partly blamed for this delay because several revision applications have been filed at their instance in the High Court and in the district court. The situation, however, continues to be unjustified because the last revision application was some time disposed in 1973 and the record was returned in 1974. This fact has been stated by the learned counsel for the petitioners and five years have elapsed since then. I am told that four witnesses have been examined and the last witness was examined in April, 1979 and after that no witness has been examined. It has been stated in the order sheet that prosecution is not in a position to know the address of the witnesses who are mostly Government Officials. Luxury of protracted trial cannot be allowed to the prosecution. If they did not know the address of their own witnesses and if the prosecution was not in a position to conclude its evidence by now it will be an abuse of the process of the court to allow the prosecution go on any further."

3. Learned counsel for the appellant State has challenged the impugned order not only on the ground that its finding about the police report not disclosing any offence against the respondents was erroneous but also with the argument that the delay in the conclusion of the trial was not a justification for quashing the proceedings. We have heard him at length and although there is much to be said against the impugned order in so far as the finding about the police report is concerned, we cannot lose sight of the fact that the trial has not made much headway even though no less than 20 years have gone by. Such protraction itself means considerable harassment to the accused not only monetarily but also by way of constant attention to the case and repeated appearances in court, apart from anxiety. It may well be that the respondents themselves were responsible in a large measure for the slow pace of the case inasmuch as quite a few orders made by the trial magistrate were challenged in higher courts, but then there has to be a limit to the period for which criminal

litigation is allowed to go on at the trial stage. In this view of the matter we do not consider the present case a proper one for our interference in spite of the fact that we feel that the allegations disclosed the commission of an offence which we regard as quite serious.

4. For the reasons stated we dismiss the appeal.

N.V.K. Appeal dismissed.