P.K. Shastri vs State Of M.P. & Ors on 19 August, 1999

Equivalent citations: AIR 1999 SUPREME COURT 3273, 1999 (7) SCC 329, 1999 AIR SCW 3256, 1999 LAB. I. C. 3252, (1999) 3 KER LT 33, (1999) 6 JT 83 (SC), 1999 (5) SCALE 124, 1999 (7) ADSC 375, 1999 CRIAPPR(SC) 440, 1999 (8) SRJ 449, 1999 (2) UJ (SC) 1400, 1999 (6) JT 83, (2000) 85 FACLR 582, (2000) 1 LAB LN 344, (1999) 3 RECCRIR 778, (1999) 3 CURCRIR 186, (1999) 5 SERVLR 1, (1999) 7 SUPREME 297, (1999) 25 ALLCRIR 1867, (1999) 5 SCALE 124, (1999) 6 ANDH LT 10, (1999) 2 CHANDCRIC 138, (1999) 2 CURLR 826, (1999) 3 SCT 834, 1999 SCC (L&S) 1285

Bench: M.Jagannadha Rao, N.Santosh Hegde

PETITIONER:
P.K. SHASTRI

Vs.

RESPONDENT:
STATE OF M.P. & ORS.

DATE OF JUDGMENT: 19/08/1999

BENCH:
M.Jagannadha Rao, N.Santosh Hegde

JUDGMENT:

SANTOSH HEGDE, J.

Leave granted.

Heard learned counsel for the parties.

In this appeal, the appellant has challenged before us that part of the order of the High Court of Madhya Pradesh at Jabalpur whereby the learned Judge had "directed that an entry be made in the C.R. of the Presiding Officer that he has no control over the proceedings of the court in as much as he permits the prosecutor to leave several times during the court hours, as a result, the work suffers as pointed out by him in his explanation dated 12.3.98. Let copy of this order be sent to the Registrar General, for making an entry in the C.R. of the Presiding Officer." The brief facts necessary for considering this appeal are as follows :

> While disposing of a bail application, the High Court on 26.9.1997 directed that the Trial Court at Datia before which Session Trial No.91/95 was pending, should dispose of the said case within 4 months from the date of receipt of the records of the case. Since the said direction was not complied with by the appellant who was the Presiding Officer of the Sessions Court at that time, the High Court as per its order dated 6.3.1998 called for an explanation from the appellant; more particularly, as to why the appellant as the Presiding Officer, had adjourned the case on 20.10.1997 and why he allowed the Additional Public Prosecutor to leave the court on 14.1.1998. The said order also specifically directed the appellant to submit his explanation as to why the Sessions Trial was not concluded within 4 months as per the directions issued by the order of the High Court on 26.9.1997.

The appellant submitted his explanation on 12.3.1998 wherein he explained in detail as to what steps were being taken for disposal of the sessions case and how he was handicapped by non-appearance of the witnesses whose presence had to be secured through warrants every time. He assured the High Court that all possible efforts will be made to finalise the proceedings as soon as possible. In regard to the query made as to the non-appearance of the Additional Public Prosecutor, he submitted that the said officer was not under his supervisory control and that the Additional Public Prosecutor was, at the relevant time, was also performing the duties of Additional Director in the Office of the District Prosecution Branch in addition to his own duty as Additional Public Prosecutor, therefore, whenever he is summoned by the Superintendent of Police of the District, he had to obey the said summons, for all these reasons, at times, adjournments became inevitable. In support of his explanation that reasonable steps were being taken by him to comply with the directions issued by the High Court, the appellant along with his explanation enclosed the order-sheet of the concerned case. However, t he High Court was not satisfied with this explanation and was pleased to pass an order which is h ereinabove. i mpugned in this appeal, as referred to by us We have carefully considered the explanation given by the appellant. While appreciating the anxiety of the High Court for quick disposal of criminal cases more so in cases where the accused persons are in custody, we feel, in the instant case, the appellant had shown reasonable cause for not being able to comply with the direction of the High Court. The appellant appears to have had some real difficulty in securing the presence of witnesses and the defence also contributed its share in the delay of the proceeding, added by the fact that the Additional Public Prosecutor was saddled with additional responsibilities and had to be away from the court in that connection.

However, we consider that despite the handicaps mentioned above, it would have been more prudent and appropriate for him to have made a proper application to the High Court for extension of time to enable him to comply with the directions of the High Court. Be that as it may, we think that the C.Rs. of an Officer are basically the performance appraisal of the said Officer and go to constitute vital service record in relation to his career advancement. Any adverse remark in the C.Rs. could mar the entire career of that Officer. Therefore, it is necessary that in the event of a remark being called for in the Confidential Records, the authority directing such remark must first come to the conclusion that the fact- situation is such that it is imperative to make such remarks to set right the wrong committed by the Officer concerned. A decision in this regard must be taken objectively after careful consideration of all the materials which are before the authority directing

the remarks being entered in the C.Rs. In the instant case, the High Court has rested its opinion in regard to the efficiency of the Officer based on the fact- situation of a single case and that too with reference to the capacity of the Officer concerned to control the proceedings of the court. There was no material before the High Court that this was the case with the concerned Sessions Judge in other cases also nor does the lacuna pointed out by the High Court appear to be such as would undermine the administration of justice.

On taking a holistic view of the matter, we are of the opinion that the direction issued by the High Court, which is impugned in this appeal, should be set aside. Accordingly, this appeal is allowed, setting aside the impugned direction issued by the High Court on 3.4.1998.