

Assistant Collector Of Central Excise vs Jainson Hosiery Industries on 27 July, 1979

Equivalent citations: 1979 AIR 1889, 1980 SCR (1) 134, AIR 1979 SUPREME COURT 1889, (1979) ELT 511, 1979 SCC(CRI) 896, 1979 (4) SCC 22

Author: V.R. Krishnaiyer

Bench: V.R. Krishnaiyer, D.A. Desai, A.D. Koshal

PETITIONER:
ASSISTANT COLLECTOR OF CENTRAL EXCISE

Vs.

RESPONDENT:
JAINSON HOSIERY INDUSTRIES

DATE OF JUDGMENT 27/07/1979

BENCH:
KRISHNAIYER, V.R.
BENCH:
KRISHNAIYER, V.R.
DESAI, D.A.
KOSHAL, A.D.

CITATION:
1979 AIR 1889 1980 SCR (1) 134
1979 SCC (4) 22
CITATOR INFO :
E&D 1985 SC1147 (9)

ACT:
Constitution of India, 1950-Art. 226-Exercise of jurisdiction under-Courts to be extremely circumspect in granting relief during the pendency of criminal investigations.

HEADNOTE:
HELD: The High Court in exercising its jurisdiction under Art. 226 of the Constitution must have regard to the well established principles and unless it is satisfied that the normal statutory remedy is likely to be too dilatory to give relief, it should be loath to act under Art. 226. It should be extremely circumspect in granting relief during

the pendency of criminal investigations. [134 G-H]

The investigation of a criminal offence is a very sensitive phase where the investigating authority has to collect evidence from all odd corners and anything that is likely to thwart its course may inhibit the interests of justice. [135A]

Courts must be very careful to see that every condition or need that the investigator points out as essential for discharging his investigative functions, should be readily conceded unless plainly unreasonable. At the stage of investigation it is risky for the court to intervene except where manifest injustice cries for its Order. [135C-D]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Special Leave Petition (Civil) No. 4059 of 1979.

From the Judgment and Order dated 30-1-79 of the Punjab and Haryana High Court in Civil Writ Petition No. 106 of 1979.

Soli J. Sorabjee, Addl. Sol. Genl. of India and Girish Chandra for the Petitioner.

The Order of the Court was delivered by KRISHNA IYER, J. The Additional Solicitor General appearing for the Petitioner, the Assistant Collector of Central Excise, complains that the Order of the High Court under Article 226 of the Constitution is a wrong exercise of its jurisdiction because there is an alternative statutory remedy under the Central Excise Act for relief when goods are seized. It is correct to say that the High Court must have regard to the well established principles for the exercise of its writ jurisdiction and unless it is satisfied that the normal statutory remedy is likely to be too dilatory or difficult to give reasonably quick relief, it should be loath to act under Article 226. May be, in exceptional cases-the present one does not appear to be one-that extra- ordinary power may be exercised. So it is right to point out that the High Courts will be careful to be extremely circumspect in granting these reliefs especially during the pendency of criminal investigations. The investigation of a criminal offence is a very sensitive phase where the investigating authority has to collect evidence from all odd corners and anything that is likely to thwart its course may inhibit the interests of justice. All that we need say here is that the High Courts will bear in mind the need for extreme reluctance when, during the investigation, any relief interim or final, which has a tendency to slow down or otherwise hamper the investigation, is sought.

In the present case, the requirements that the prosecution put forward were readily granted by the High Court and the need for the containers which bear tell-tale testimony necessary for the investigation does not appear to have been pointed out to the High Court. We certainly agree that even while releasing the goods the Courts must be very careful to see that every condition or need that the investigator points out as essential for discharging his investigative functions, should be readily conceded by the Court unless plainly unreasonable. After all, at the stage of investigation it is

risky for the Court to intervene except where manifest injustice cries for the Order of the Court.

With these observations, we dismiss the Petition.

N.V.K.

Petition dismissed.