

State Of Andhra Pradesh vs P.V. Pavithran on 1 March, 1990

Equivalent citations: 1990 AIR 1266, 1990 SCR (1) 746, AIR 1990 SUPREME COURT 1266, 1990 (2) SCC 340, (1990) 2 CHANDCRIC 67, 1990 CRILR(SC&MP) 251, (1990) 2 CRIMES 40, (1990) EASTCRIC 657, (1990) IJR 212 (SC), (1990) MAD LJ(CRI) 221, (1990) SC CR R 550, (1990) 2 CRILC 371, 1990 APLJ(CRI) 258, 1990 CALCRILR 135, 1991 SCC (CRI) 7, (1990) 2 JT 43 (SC)

Author: S.R. Pandian

Bench: S.R. Pandian

PETITIONER:
STATE OF ANDHRA PRADESH

Vs.

RESPONDENT:
P.V. PAVITHRAN

DATE OF JUDGMENT 01/03/1990

BENCH:
PANDIAN, S.R. (J)
BENCH:
PANDIAN, S.R. (J)
REDDY, K. JAYACHANDRA (J)

CITATION:
1990 AIR 1266 1990 SCR (1) 746
1990 SCC (2) 340 JT 1990 (2) 43
1990 SCALE (1) 418
CITATOR INFO :
E 1992 SC1701 (39)

ACT:
Code of Criminal Procedure, 1973: Sections 173 and Investigation--Inordinate delay--Whether ipso facto a ground quashing of F.I.R.--Factors to be considered for determining delay-Speed.,v investigation and trial--Necessity for.
Constitution of India, 1950.' Article 21--Right to speed), investigation and fair trial--Delayed or protracted investigation--Whether causes grave prejudice or disadvantage to accused.

HEADNOTE:

A case was registered against the respondent, an officer of the Indian Police Service, under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act, 1947, on 8.3.1984 but the investigation report was submitted to the Government on 17.9.1987. In November, 1987, the respondent filed a criminal petition for quashing further proceedings pursuant to the registration of the First Information Report contending that there had been inordinate delay in the investigation and that the prosecution had not filed the report as contemplated under Section 173 Cr. P.C. till he filed the petition. The appellant contended that the delay was occasioned on account of dilatory tactics adopted by the respondent and that the case was a complicated and time-consuming one. The High Court quashed the First Information Report and observed that wherever there was an inordinate delay on the part of the investigating agency in completing investigation, the case merited quashing of the First Information Report even.

The State preferred an appeal in this Court contending that the High Court's observation was too wide a proposition and it would be detrimental to the prosecution in future under all circumstances, regardless of reasons therefor. Dismissing the appeal, this Court,

HELD: 1.1 No general and wide proposition of law can be formulated that wherever there is inordinate delay on the part of the

747

investigating agency in completing the investigation, such delay, ipso facto, would provide ground for quashing the First Information Report or the proceedings arising therefrom. [750H, 751A]

1.2 A lethargic and lackadaisical manner of investigation over a prolonged period makes an accused in a criminal proceeding to live every moment under extreme emotional and mental stress and strain and to remain always under a fear psychosis. Therefore, it is imperative that if investigation of a criminal proceeding staggers on with tardy pace due to the indolence and inefficiency of the investigating agency causing unreasonable and substantial delay resulting in grave prejudice or disadvantage to the accused, the Court as the protector of the right and personal liberty of the citizen will step in and resort to the drastic remedy of quashing further proceedings in such investigation. However, there are offences of grave magnitude which would necessarily involve considerable time for unearthing the crimes and bringing the culprits to book. Therefore, it is not possible to formulate inflexible guidelines or rigid principles of uniform application for speedy investigation or to stipulate any arbitrary period of limitation within which investigation in a criminal case should be completed. [750B-F]

1.3 The determination of the question whether the ac-

cused has been deprived of a fair trial on account of delayed or protracted investigation would also, therefore, depend on various factors including whether such delay was unreasonably long or caused deliberately or intentionally to hamper the defence of the accused or whether it was due to the dilatory tactics adopted by the accused. The Court, in addition, has to consider whether such delay on the part of the investigating agency has caused grave prejudice or disadvantage to the accused. The assessment of these factors necessarily vary from case to case. [750G-H]
Raghubir Singh v. State of Bihar, [1986] 4 SCC 481, relied on.

Bell v. Director of Public Prosecutions of Jamaica and another, [1985] 2 All England Law Reports 585, referred to.

The Power of the Courts to stay a Criminal Prosecution,' 1985 Criminal Law Review 175, referred to.

In the instant case, the respondent was placed under suspension pending enquiry but was reinstated on the basis of enquiry report and further action was stopped. However, by a subsequent order dated 5th July, 1985 the earlier order was cancelled and a show cause notice for
748

his compulsory retirement was issued. The Central Administrative Tribunal held that the order dated 5th July, 1985 was illegal and beyond the powers of State Government. This Court dismissed State's Special Leave Petition. In the meantime, the respondent was allowed by the appellant to retire peacefully from service on attaining the age of superannuation and the First Information Report and consequent proceedings were quashed by the High Court. In these circumstances, this is not a fit case for interference. [751D, E, G, 752A, C-E]

JUDGMENT:

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 359 of 1989.

From the Judgment and Order dated 29.7.1988 of the Andhra Pradesh High Court in Crl. Petition No. 1023 of 1987. K. Madhava Reddy and G. Prabhakar for the Appellant. H.S. Gururaj Rao, Subodh Markandeya, Mrs. C. Markandeya, W.A. Nomani and G. Seshagiri Rao for the Respondent. The Judgment of the Court was delivered by S. RATNAVEL PANDIAN, J. The State of Andhra Pradesh represented by the Director, Anti-Corruption Bureau, Hyderabad has filed this criminal appeal challenging the correctness of the Order dated 29.7.1988 of the High Court of Andhra Pradesh in Crime No. 7/ACB/Cr. II/84 dated 8.3.1984 on the file of the Special Judge for ACB & SPE quashing the First Information Report in exercise of its inherent powers under Section 482 of the Code of Criminal Procedure. A few facts relevant to decide this case may be stated:

The respondent was selected to the Indian Police Service in the year 1953 and he worked in various capacities at different places. While he was working as Commissioner of Weights & Measures, Government of Andhra Pradesh, on a report dated 7.3. 1984 submitted by the Deputy Superintendent of Police, Anti-Corruption Bureau, a case was registered against him on 8.3. 1984 in Crime No. 7/ACB/Cr. II/84 under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act, 1947 on the allegations that while functioning as Commissioner of Police and later as Vice-Chairman of Andhra Pradesh Housing Board during the years 1978-82, he indulged in corrupt practices and acquired immovable assets either in his name or in the name of his wife. The Anti-Corruption Bureau after completing its investigation submitted its report on 22.4.1987 to its Director General who in turn sent the same to the Government on 17.9. 1987. The Government accorded the necessary sanction for prosecution in G.O.Ms. Nos. 525 and 526 dated 16.9. 1988. In the meantime, the respondent filed the criminal petition for quashing further proceedings pursuant to the registration of the First Information Re-

port, inter alia, contending that there had been lull in the investigation for fairly long spell causing inordinate delay and that the prosecution had not filed its report contemplated under Section 173 Cr.P.C. till he filed the petition for quashing the proceedings in November 1987 though the case was registered even in March 1984.

The plea of the respondent was stoutly resisted by the appellant stating that the delay was occasioned on account of the dilatory tactics adopted by the respondent and the case was a complicated and timeconsuming one. The High Court has quashed the First Information Report on the ground that there was inordinate delay in the investigation. Aggrieved by that judgment, the State has preferred this Criminal appeal.

Mr. Madhava Reddy, learned senior counsel appearing on behalf of the appellant took an exception to the observation of the learned Single Judge of the High Court reading:

" I hold that wherever there is an inordinate delay on the part of the investigating agency in completing investigation, the case merits quashing of the First Information Report even Generally, this Court will not quash the F.I.R. because it amounts to stopping of investigation, but where there is an inordinate delay, the same is a ground to quash even the F.I.R."

and contended that the above observation is too wide a proposition and it will be detrimental to the prosecution in future under all circumstances, regardless of the reasons therefor.

Though we have decided to dispose of this appeal on some other ground, the submission of Mr. Madhava Reddy on the above extracted observation of the High Court makes it necessary to examine the ques-

tion whether a mere delay in the investigation of a criminal proceeding will by itself serve as a sufficient ground for quashing the proceedings in pursuance of the registration of the case notwithstanding whatever may be the reasons for the delay. This question has come up for determination in a number of cases wherein this Court has examined the right of an accused for a speedy investigation and trial in a criminal case in the light of Article 21 of the Constitution of India.

There is no denying the fact that a lethargic and lackadaisical manner of investigation over a prolonged period makes an accused in a criminal proceeding to live every moment under extreme emotional and mental stress and strain and to remain always under a fear psychosis. Therefore, it is imperative that if investigation of a criminal proceeding staggers on with tardy pace due to the indolence or inefficiency of the investigating agency causing unreasonable and substantial delay resulting in grave prejudice or disadvantage to the accused, the Court as the protector of the right and personal liberty of the citizen will step in and resort to the drastic remedy of quashing further proceedings in such investigation.

While so, there are offences of grave magnitude such as diabolical crimes of conspiracy or clandestine crimes committed by members of the underworld with their tentacles spread over various parts of the country or even abroad. The very nature of such offences would necessarily involve considerable time for unearthing the crimes and bringing the culprits to book. Therefore, it is not possible to formulate inflexible guidelines or rigid principles of uniform application for speedy investigation or to stipulate any arbitrary period of limitation within which investigation in a criminal case should be completed.

The determination of the question whether the accused has been deprived of a fair trial on account of delayed or protracted investigation would also, therefore, depend on various factors including whether such delay was unreasonably long or caused deliberately or intentionally to hamper the defence of the accused or whether such delay was inevitable in the nature of things or whether it was due to the dilatory tactics adopted by the accused. The Court, in addition, has to consider whether such delay on the part of the investigating agency has caused grave prejudice or disadvantage to the accused.

The assessment of the above factors necessarily vary from case to case. It would, therefore, follow that no general and wide proposition of law can be formulated that wherever there is inordinate delay on the part of the investigating agency in completing the investigation, such delay, ipso facto, would provide ground for quashing the First Information Report or the proceedings arising therefrom.

Our above view is supported by a decision of this Court in *Raghubir Singh v. State of Bihar*, [1986] 4 SCC 481. Reference may also be had to *Bell v. Director of Public Prosecutions of Jamaica and another*, [1985] 2 All England Law Reports 585 and the article in 1985 Criminal Law Review 175 captioned 'The Power of the Courts to stay a Criminal Prosecution.' It follows from the above observations that no general and wide proposition of law can be formulated that wherever there is any inordinate delay on the part of the investigating agency in completing the investigation, such

delay is a ground to quash the F.I.R.

Reverting to the present case, the respondent was placed under suspension pending enquiry into certain irregularities in the purchase of land as pointed out in the earlier part of this judgment. The State Government on the basis of the enquiry report passed orders for stopping further action and directed re-instatement of the respondent into service with immediate effect by Order dated 5th September 1984. Accordingly, he was re-instated and allowed to function as Controller, Weights & Measures, Andhra Pradesh. However, by subsequent order dated 5th July 1985, the appellant (State Government) cancelled the aforesaid order dated 5th September 1984 and directed the respondent to show cause as to why the penalty of compulsory retirement should not be imposed on him. Thereupon, the respondent filed Writ Petition No. 10670 of 1985 before the High Court of Andhra Pradesh, seeking a writ of mandamus declaring the orders of the appellant contained in G.O. Rt. No. 2930, GA (SC. C) Department dated 5th July 1985 as arbitrary and unconstitutional, and consequently to set aside the same by holding that the appellant was bound to give effect to the Orders contained in G.O. Rt. No. 4572, GA (SC. C) Department dated 5th September 1984. This writ petition was transferred to the Central Administrative Tribunal, Hyderabad Bench. The Tribunal allowed the petition holding that the impugned order in G.O.Rt. No. 2930 dated 5th July 1985 is illegal and beyond the powers of the State Government.

Aggrieved by the judgment of the Tribunal, the State of Andhra Pradesh preferred a Special Leave Petition (Civil) before this Court, and this Court by its Order dated 16.11.1988 dismissed the same. The said order reads as follows:

"Having regard to the facts and circumstances of the case and specialty in view of the facts that the respondent has retired from service on attaining the age of superannuation, we do not consider it a fit case for interference. It is accordingly dismissed."

Admittedly, the appellant notified the date of retirement of the respondent w.e.f. 30th April 1988 by G.O.Rt. No. 866 dated 10th March 1988. Accordingly, the respondent was allowed to retire peacefully from service on attaining the age of superannuation. The First Information Report and the consequent proceedings on the registration of the case were quashed by the High Court on 29.7.1988. Surprisingly, the appellant accorded sanction for prosecution in G.O.Ms. Nos. 525 & 526 dated 16.9.1988 i.e. after nearly 50 days of the quashing of the First Information Report.

In view of the above facts and circumstances and the various events following the suspension of the respondent culminating in his being allowed to retire on attaining the age of superannuation, we are of the view that it is not a fit case for interference.

The appeal is accordingly dismissed.

N.P.V.
missed.

Appeal dis-

