

State Of Bihar And Anr. vs K.J.D. Singh on 17 February, 1993

Equivalent citations: 1993(41)BLJR1401, (1993)95BOMLR238, (1994)1CALLT48(SC)

Author: N.P. Singh

Bench: N.P. Singh

ORDER

1. By its judgment dated 29th September, 1983, the High Court of Patna quashed the prosecution against the respondent in respect of offences under Sections 120B, 420, 468 and 471 of the Indian Penal Code in exercise of its inherent jurisdiction under Section 482, Cr.P.C. before the commencement of the trial,

2. Mr. Ranjit Kumar, learned Counsel for the respondent has submitted that the judgment of the High Court is sustainable on the ground that the seizure was not proper and the evidence collected does not show that the respondent had committed any crime, he has further submitted that the charge-sheet was submitted as early as in the year 1979 and the total amount which is alleged to have been misappropriated by the respondent was only to the tune of Rs. 25,840/. We are afraid that it is not permissible for us to appreciate these submissions of the learned Counsel at this stage when evidence has as yet to be led. In our opinion, the course adopted by the High Court to appreciate the "evidence" was not proper. The observations made with regard to the alleged unsatisfactory nature of the evidence by the High Court, to say the least, were premature.

3. After going through the record and hearing Mr. Goswami, learned senior counsel for the State and Mr. Ranjit Kumar, learned Counsel for the respondent, we are of the view that it is not a case in which the High Court should have cut short the normal process of the criminal trial. The exercise of the powers by the High Court under Section 482, Cr.P.C to quash the prosecution launched against the respondent at the stage when the trial had not even commenced was not proper. In view of the series of decisions of this Court starting with the judgment in R.P. Kapoor's case : up to Janta Dal v. H.S. Chowdhary : , the inherent power under Section 482 has to be exercised for the ends of the justice and should not be arbitrarily exercised to cut short the normal process of a criminal trial. After a review of catena of authorities, Pandian, J. in Janta Dal v. H.S. Chowdhary (supra) has deprecated the practice of staying criminal trials and police investigations except in exceptional cases and the present case is certainly not one of these exceptional cases.

4. We are, therefore, of the opinion that the High Court was not justified in quashing the prosecution launched against the respondent for offences under Sections 420, 468, 471 and 120B, I.P.C. The judgment of the High Court cannot, thus be sustained. This appeal is consequently allowed and the judgment of the High Court is set aside. The case shall proceed to trial expeditiously.

5. We hasten to add that our observations made hereinabove are limited only for the purpose of determination of the question of exercise of powers by the High Court under Section 482, Cr.P.C, and nothing said by us should be construed as any expression of opinion on the merits of the case, It shall be open to the respondent to raise all such pleas as are available to him in law in his defence during the trial.