

State Of Punjab vs Union Of India (Uoi) And Ors. on 24 September, 1986

Equivalent citations: AIR1987SC188, 1987(35)BLJR171, 1987CRILJ151, 1986(0)KLT1297(SC), 1986(2)SCALE718, (1986)4SCC335, 1986(2)UJ693(SC), AIR 1987 SUPREME COURT 188, 1986 (4) SCC 335, 1987 UJ(SC) 1 119, 1986 CRIAPPR(SC) 261, 1986 ALLAPPCAS (CRI) 230, 1986 CURCRIJ 296, 1986 SCC(CRI) 441, 1987 BLJR 171, (1986) 2 CURCC 1018, (1986) ALL WC 1040, 1986 ED CAS 290, (1987) 1 CURLJ(CCR) 42, (1987) 1 RENCJ 49, (1987) 1 LANDLR 305, (1987) 1 RENTLR 24, 1987 SCFBRC 65, 1987 MPRCJ 119, 1987 HRR 146, 1986 UJ(SC) 2 565, (1987) 1 PUN LR 1, 1987 APLJ(CRI) 45, 1987 UP CRIR 65, 1987 IJR 1, (1986) 4 SUPREME 283, 1986 (2) UJ (SC) 693, (1986) JT 1016 (SC), (1987) SC CR R 3, 1986 CHANDLR(CIV&CRI) 694, (1986) 3 SCJ 633, (1986) 2 CRILC 640, (1986) ALLCRIC 501, (1987) EASTCRIC 117, (1986) KER LT 1297, (1986) PAT LJR 53, (1987) 1 RECCRIR 67, (1987) ALLCRIR 34, (1987) CHANDCRIC 34, (1987) 2 ALLCRILR 62

Bench: A.P. Sen, B.C. Ray

ORDER

1. We are satisfied on hearing learned Counsel for the parties that the judgment of the High Court cannot be sustained. It is the duty of the Court while granting permission to the Public Prosecutor to withdraw from the prosecution under Section 494 of the CrPC, 1898 to satisfy itself that the executive function of the Public Prosecutor has not been improperly exercised or that it is not an attempt to interfere with the normal course of justice for illegitimate reasons or purposes. The ultimate guiding consideration while granting a permission to withdraw from the prosecution must always be the interest of administration of justice and that is the touchstone on which the question must be determined whether the prosecution should be allowed to withdraw. The Public Prosecutor may withdraw from the prosecution of a case not merely on the ground of paucity of evidence but also in order to further the broad ends of public justice, and such broad ends of public justice may well include appropriate social, economic and political purposes.

2. In the present cases, the proceedings were still in their initial stages and the State Government took a policy decision that in all cases which did not involve acts of serious personal violence or material destruction of State property, the prosecutions against the respondents i.e. employees of the Posts & Telegraph Department who went on one day's token strike on September 19, 1968 and who were not involved in any such acts of violence and destruction, should be withdrawn. In accordance therewith, the Public Prosecutors moved applications under Section 494 of the Code for permission to withdraw from the prosecutions. In due course, the applications were allowed on the learned Magistrates being satisfied that the requirements of Section 494 were fulfilled and they

recorded orders of acquittal of the respondents under Section 494(b) of the Code. It cannot be said that the learned Magistrates were not justified on the materials placed before them in coming to the conclusion that the grant of permission would not subserve the interests of justice. On the contrary, the decision taken by the State Government to withdraw from the prosecutions was a part of an overall settlement between the Central Government and the employees of the Posts & Telegraph Department. It would certainly not subserve the interests ! of Justice to direct retrial of the respondents despite the settlement arrived at, after a lapse of nearly 18 years. Such a course would give rise to unnecessary industrial unrest for no reason whatever. We need not enter into the controversy whether this Court having in *M.N. Sankarayarayanan Nair v P.V. Balakrishnan and Ors.* referred to the decision of the Full Bench of the Kerala High Court in *Dy Accountant General (Admn.), Office of the Accountant General, Kerala, Trivandrum v State of Kerala and Ors.* while laying down the requirements of s 494 of the Code, this was tacit approval of the view taken in that case.

3. The result therefore is that the appeals must succeed and are allowed. The judgment and order of the High Court are set aside and the orders of acquittal passed by the learned Magistrates are restored.