

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.02.2019
CORAM:
THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P.No.2814 of 2019

P.Ravi

...Petitioner

Vs.

1. The State rep by
The Inspector of Police,
CSCID, Wing, Chennai unit,
Chennai - 600 053.
(Crime No.254 of 2004)

2. Abdul Khadar

...Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records relating to the charge sheet in C.C.No.8987 of 2004 (Amended as per order dated 13/02/2019 made in Crl.Mp.2406/19) dated 20.07.2004 on the file of the learned Judicial Magistrate IX, Saidapet, Chennai (now transferred to VI Metropolitan Magistrate Court, Egmore) to quash the same insofar it relates to the petitioner is concerned.

For Petitioners : Mr.J.Muthukumaran

For Respondents

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in C.C.No.8987 of 2004 dated 20.07.2004 on the file of the learned Judicial Magistrate IX, Saidapet, Chennai (now transferred to VI Metropolitan Magistrate Court, Egmore), thereby taken cognizance for offences under Sections 6(2)(3) (RDSC) Order 1982 r/w Section 7(i)a(ii) of Essential Commodities Act 1955, as against the petitioner.

2. It is seen from that the first respondent filed charge sheet before the IX Metropolitan Magistrate, Saidapet, Chennai as early as on 20.07.2004 and thereafter it was transferred to VI Metropolitan Magistrate Court, Egmore. Even after 15 years, the trial Court did not take the cognizance and it is pending for trial. Though the petitioner was permitted to retire and his retrial benefits have not been disbursed, because of this proceeding. In this regard the learned counsel appearing for the

petitioner relied upon the judgment reported in AIR 1992 Supreme Court 603 in the case of S.G.Nain Vs. Union of India, which reads as follows :-

"3. It is difficult to get over the fact that the prosecution against the appellant is pending for almost fourteen years. Apart from mental agony it must have adversely affected him in his service career. In the facts of this case it is difficult rather impossible to a fair trial the appellant after such a long time-lapse. It would be sheer waste of public time and money apart from causing harassment to the appellant. It is no doubt correct that this appeal has been pending in this Court for almost eleven years but that is no ground to permit this stale-prosecution to go on. It is not the state action but its effect on the citizen which is relevant.

4. We have been taken through the complaint. We are not sure whether an offence Under Section 409, I.P.C. even prima facie is made out. In any case it is not necessary to go into the facts of the complaint or the question of applicability of Section 197, Cr.P.C. In the facts and circumstances of this case, we are of the view that it would not be in the interest of justice to permit the prosecution against the appellant to continue. We, therefore, quash the complaint dated August 10, 1977 and the prosecution against the appellant."

3. In the case on hand also the C.C.No.8987 of 2004 is pending for the past 15 years. After 15 years, it is difficult rather impossible to a fair trial to the petitioner after the long such period. It is also doubt whether the offences under Sections 6(2)(3) (RDSC) Order 1982 r/w Section 7(i)a(ii) of Essential Commodities Act 1955 are prima facie made out. Further after the retirement, the petitioner need not to go ordeal trial and there is no chance for conviction in this case. The pendency of the criminal proceeding is clear abuse in process of Court and the entire proceedings cannot be sustained in further. Therefore without going into the merits of the case, to meet the ends of justice, this Court feels that the entire proceedings ought to have been quashed.

4. With the above discussion, this Court is of the view that it would not be in the interest of justice to permit the prosecution against the petitioner to continue. Accordingly, the proceedings in C.C.No.8987 of 2004 dated 20.07.2004 on the file

of the learned Judicial Magistrate IX, Saidapet, Chennai (now transferred to VI Metropolitan Magistrate Court, Egmore) is hereby quashed and this Criminal Original Petition stands allowed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rts

To

- 1.The Chief Judicial Magistrate,
Chennai.
2. The Judicial Magistrate Court IX,
Saidapet, Chennai.
3. The VI Metropolitan Magistrate Court,
Egmore.
4. The Inspector of Police,
CSCID, Wing, Chennai unit,
Chennai - 600 053.
5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.J.Muthukumaran, Advocate sr.no.17569

सत्यमेव जयते

Cr1.O.P.No.2814 of 2019

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