

(1989) 07 P&H CK 0066

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 3733-M of 1988

Bikramjit Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 27-07-1989

Acts Referred:

Citation : (1989) 2 AICLR 485 : (1989) 2 RCR(Criminal) 471

Hon'ble Judges : S.D.Bajaj, J

Advocate : S.S. Saron, G.S. Bhatia, Advocates for appearing Parties

Judgement

S.D. Bajaj, J.

1. On checking the accounts and making physical verification of the stocks of central stores of civil defence at Patiala, the Board of high officers found that during the preceding five years from 24th September, 1975 to 31st September, 1980, sundry articles set out in FIR No. 259 registered on 6th November, 1980, in Police Station Civil Lines, Patiala, valued at Rs. 50729.45 were short. Challan against the petitioners and others having been filed without obtaining sanction of the State Government in terms of Section 5(2) of the Home Guards Act, 1947. Proceedings taken against them were ordered to be dropped vide order dated 4th September, 1986, of the learned Additional Sessions Judge, Patiala. Necessary sanction has since been obtained on 19th October, 1987 and prosecution launched over again. Alleging that the prosecution is in respect of much too stale an occurrence of the years 1975 to 1980 delinquents have approached this Court in Criminal Miscellaneous No. 3733M of 1988 for quashing the FIR and the resultant proceedings on grounds of inordinate delay.

2. I have heard Shri. G.S. Bhatia, Advocate, for the petitioners, Shri S.S. Saron, Assistant Advocate General, Punjab, for the State and have carefully gone through the relevant material on records.

3. Basing his argument on the observations made in B.N. Ganjoo v. State of Himachal Pradesh, 1983(1) Chandigarh Law Reporter 301, Des Raj Singhal v.

State of Punjab, 1986 Chandigarh Law Reporters 347, Kailash Nath v. The State of Punjab, 1987(2) Recent Criminal Reports 108 , Siriniwas Gopal v. Union Territory of Arunchal Pradesh, 1988(1) RCR 401 , The State of Punjab v. Sain Dass and others, Volume XCV 1988(1) Punjab Law Reporter 34 and The State of Punjab v. Kailash Nath, 1989(1) All. India Criminal Law Reporter 235, learned Counsel for the petitioners urged that the proceedings taken against the petitioners in 1987 in respect of the occurrence alleged to have happened in the years 1975-1980 are much too stale and call for being quashed. The relevant observations read as under :

"Lastly, it was urged by learned Counsel for the respondents in these appeals that on the same principle on which criminal appeal No. 40 of 1987 in the matter of Des Raj Singhal was dismissed, these appeals also deserve to be dismissed. So far as this submission is concerned, we find substance as regards the appeal against Kailash Nath. The First Information Report in this case was lodged on 27th August, 1985, that is, after about six years of the accusation of the cause of action or taking place of events which took place in 1979 and after about three years even from 31st October, 1982 when the respondent retired from service. Now in 1988 it would be pursuing a stale matter. In this view of the matter, we are of the opinion that the order of the High Court quashing the First Information Report as against Kailash Nath, respondent in Criminal Appeal No. 422 of 1988, deserves to be maintained though on a different ground."

4. In this case also concurrence is of 1975 to 1980 and the prosecution against the accused has been permitted to be launched on 19th October, 1987, after a lapse of more than seven years. The inordinate delay of nearly eight years sounds the deathknell of the prosecution against the petitioners. Criminal Misc. No. 3733M of 1988 is thus allowed. FIR No. 259 registered against the petitioners in Police Station Civil Lines, Patiala on 6th November, 1980 under Section 15(2) of the Prevention of Corruption Act and Sections 409/219/380/100E, IPC, is quashed.

5. Learned State Counsel referred me to the Supreme Court observations made in State of Bihar v. Murad Ali Khan and others, AIR 1989 SC 1 and urged that since prima facie case against the petitioners is duly made out from the contents of the FIR lodged against them, the FIR as also the resultant proceedings against them should not be quashed. I see no merit in the argument advanced nor is it supported from the observations made in the authority cited and, as such the observations made therein are of no help to the respondent State.

JUDGMENT accordingly