

(1992) 09 SC CK 0003

In the Supreme Court Of India

Case No : Criminal MP No's. 3378 of 1991 and 4456 of 1992 in 2755 of 1988

Maniyeri Madhavan

APPELLANT

Vs

Inspector of Police, Cannanore

RESPONDENT

Date of Decision : 24-09-1992

Acts Referred:

Citation : AIR 1993 SC 356 : AIR 1992 SC 356 : (1992) 3 SCALE 1 : (1993) 2 SCC 501 Supp

Hon'ble Judges : P. B. Sawant, J;N. P. Singh, J;M. N. Venkatachaliah, J

Bench : Full Bench

Final Decision : Allowed

Judgement

1. The development in this case are disquieting. We are perturbed by the way in which State of Kerala and its officers have dealt with the orders of this Court. The matter calls for a fresh and detailed approach. An order of this Court made on 22.12.1989 directing completion of investigation of allegations of physical violence on and destruction of the printing Press of Journalist by the Police within two months is yet to be completed even after a lapse of nearly 3 years.

2. A journalist in the State of Kerala complained of an attack on his person and property at the instance of the Police officers of the State. The High Court in the writ petition filed by him, thought it appropriate that the Deputy Inspector General of Police, Northern Range, be "asked to look into the complaint on the petitioner making a representation in the behalf."

Petitioner approached this Court urging that the Police force in the State which had been angered by his journalistic disclosures, was bending its energies to break him and that it would be travesty and farcical that the Police of the State is asked to investigate its own crimes. He wanted an investigation by the C.B.I. Unfortunately, events as have unfolded themselves, render his apprehensions not illegitimate. But the Court put faith in the professional honour of the Police machinery of the State and trusted them to carry out an expeditious

investigation into the serious complaints of the petitioner. A question arises whether that trust was really justified. This Court then did not accept the petitioner's impassionate plea that the investigation be entrusted to the C.B.I. and not to the local Police. It preferred to accept the assurance on behalf of the State by Shri Poti, its learned Counsel. We may recall what Mr. Poti had said on that occasion, as recorded in the order dated 22nd December, 1989:

Shri Poti, learned Senior Advocate appearing for the State of Kerala submitted that there is no justification for the petitioner to express such extreme cynicism against the entire system and that there are, yet, many Police Officers in the State who can be trusted to maintain high degree of professional integrity and honour and rise above departmental bias. He suggested that if petitioner has any reservations about the Deputy Inspector-General of Police, Northern Range, on account of the circumstances that the accused officers function in that Range, the Court could appoint Shri M.G.A. Raman, Deputy Inspector General of Police, Central Range and entrust the work of supervision of the investigation to him. Mr. Poti assured us that the State Government would issue all the necessary and appropriate notifications authorising Shri M.G.A. Raman to supervise the investigations. We think, we should accept Shri Poti's, submissions.

3. From hindsight and what has transpired since then serious doubt arises whether, at all, the interest of justice was served by the acceptance of that submission.

It was accordingly directed that instead of the D.I.G. of Police, Northern Range, indicated in the order of the High Court, Mr. M.G.A. Raman, Deputy Inspector General of Police, Central Range, would supervise the investigation. It was also directed that a case be registered on the basis of the representation submitted by the petitioner to Mr. Raman and the investigation "be completed within a period of two months from the date of receipt of such representation." Pursuant to this order, a representation was made to Mr. Raman by the petitioner.

Mr. Raman, we regret to have to record, apparently not complete the investigation within the time-frame. He did not even bother to move this Court for an extension of time if he found that he could not complete the investigation within time. We take serious note of this attitude on the part of Mr. Raman which, if tolerated, would reduce the proceedings of the highest Court of the land to a farce. According to the petitioner, Mr. Raman did nothing during the period of next six months either. The petitioner says that Mr. Raman did not even examine the Superintendent of Police, who was the main accused. We cannot say anything on this till we examine the records of investigation.

4. It would appear that sometime in October, 1990, Mr. Raman was deputed to the Hotel Corporation of India for appointment as its Vigilance Officer which assignment he accepted and abandoned his supervision of the investigation. It was thoroughly improper for the State Government to have permitted Mr. Raman to give up and Mr. Raman himself to have given up the investigation without the

orders of this Court. Mr. Raman appears to have sent a communication on 28th November, 1990 to Mr. Poti enquiring whether he should continue with the supervision of the investigation or not, with a copy of it to the Registrar of the Court, for information. Neither Mr. Poti nor the Registrar could have given any permission. It is not clear whether this communication was ever brought to the notice of the Registrar. Be that as it may, Mr. Raman cannot taken shelter under this communication which was addressed to the State's counsel. In any event, the Registry could not have treated a copy of this communication as a substantive petition and list it before the Court. That apart, even to the extent it goes, the communication was well beyond the time fixed by this Court to complete the investigation.

5. On 11.3.1991 the State Government filed an application seeking extension of time and certain directions consequent upon Mr. Raman ceasing to be incharge of the investigation. It is proper to assume that the applicant and its counsel knew that unless a mention for listing was made and directions for posting obtained, the matter would not be listed before the Court. The petitioner says that application filed on 11.3.1991 was apparently to put something on record in an attempt to get over the consequences of the utter indifference to the orders of this Court. It was filed almost a year after the time fixed for completion of this investigation had expired.

It was thereafter that, on 13.3.1992, the petitioner moved this Court for directions. This time, he prayed that the earlier order entrusting the investigation to the State Police be withdrawn and the matter be investigated by the C.B.I. This application filed on 13.3.1992 was listed before the Court, for the first time, on 3.9.1992 on which date the Court directed the Home-Secretary to file an affidavit mentioning the stage of the investigation and also to specify the names of the officers of the rank of Inspectors General of Police, who can be entrusted with the investigation, if need arose. The Home Secretary, we regret to say, ignored this order and did not file his affidavit. He asked an Under Secretary to file one.

6. We are afraid, in this case the concerned officers of the State seem to manifest a disturbing degree of indifference. We take serious note of these lapses. Apart from considering as to which agency should now investigate this serious offence alleged against the State Police by a journalist, we would also like the State Government to explain why Mr. Raman who was in the midst of the investigation, was relieved and sent on deputation without the orders of this Court. In the meanwhile, the principal accused the Superintendent of Police, has been elevated as a Deputy Inspector General of Police. Mr. Raman himself will have to. explain as to why he did not complete the investigation in time; allowed time to lapse and according to the petitioner, of allowing evidence to be lost with ulterior motives and abandon the supervision of the investigation. These lapses in the investigation seem to lend credence to the grievance of the petitioner that Mr. Raman himself, begin a State Police Officer, has not been able to distance

himself from the interests of these accused of highhandedness against the petitioner. The Home Secretary will explain why he did not obey the orders of this Court dated 3.9.1992 which expressly directed him to file an affidavit.

7. We direct the Home Secretary, State of Kerala, Mr. Raman, the then Deputy Inspector General of Police (now working as the Vigilance Officer of the Hotel Corporation of India) and the Chief Secretary representing the State, to show-cause why action should not be taken against them for the lapses and omissions in obeying the orders of this Court. The Home Secretary as also Mr. Raman will appear personally before this Court while the Chief Secretary may be represented by his counsel. Notices in the appropriate form shall issue to them for proceedings of contempt of Court.

8. In the meanwhile, the interests of the petitioner have suffered. His travails in pursuit of an honest investigation of his serious grievance against the Police officers of the State have not ended. He has been running from pillar to post to have his serious grievance that the Superintendent of Police virtually destroyed his Press, investigated. We think the least that we should do to him immediately is to compensate him in terms of costs for his being compelled to approach the Court repetitively for relief. We direct the State of Kerala to pay to the petitioner a sum of Rs. 10,000/- towards costs, now tentatively assessed, in addition to whatever damages that may be determined finally.

9. This matter be called on 13.10.1992. The Home Secretary and Mr. Raman, the then Deputy Inspector General of Police (now Vigilance Officer, Hotel Corporation of India) shall be present in Court personally on that day.

10. Since it appears appropriate that the conduct and progress of investigation of the case is such as not to inspire confidence, we recall the operative part of our order dated 22.12.1989 and direct the C.B.I. to investigate the complaint of the petitioner, complete the investigation and make a report to this Court within four months from today. All the records of the investigation including the representation filed by the petitioner before Mr. Raman shall be transferred by the State to the C.B.I. promptly for further action.

11. A copy of this order be sent to the Director General of C.B.I. who shall, in turn, cause the investigation to be taken over or initiated, as the case may be, immediately.