
(1997) 01 KAR CK 0041
In the Karnataka High Court
Case No : Criminal Petition No. 496 of 1993

M/s B.T. and F.C. (Pvt.) Ltd., Bangalore	APPELLANT
Vs	
Karnataka State Pollution Control Board, Bangalore	RESPONDENT

Date of Decision : 17-01-1997

Acts Referred:

Citation : (1997) 2 ALT(Cri) 622 : (1997) ILR (Kar) 2244 : (1997) 3 KarLJ 199

Hon'ble Judges : M.F. Saldanha, J

Bench : Single Bench

Advocate : Javaji Srinivasulu, for the Appellant; M.S. Padmarajaiah, for the Respondent

Judgement

1. I have heard the learned advocates on both sides. The petitioner's learned advocate is perhaps justified to some extent about his grievance because he states that the proceeding was between the respondent Board and the original accused and pursuant to the accused pointing out to the Court that the present petitioners" are in fact the lessees of the unit, the Court has added them as the accused. The scope of S. 319 will have to be looked into from the spirit of the enactment which empowers a Court to add on a party as the accused at any stage of the trial if it appears that prima facie, there is material to hold that such inclusion is necessary. In this case, the original accused-Society pointed out that the unit is being run by the present petitioners and since the offence alleged was in relation to the discharge of effluent from the unit, the Court was fully justified in adding on the company which is in fact running the unit.

2. The petitioners" learned advocate submitted that the Managing Director of the Company has been shown as an accused without there being an averment to the effect that the Managing Director of the Company is responsible for the alleged offence. It is true that such a formal averment should be contained in the complaint or that some material should be placed before the Court for purposes of arraigning an accused person but we cannot lose sight of the legal position in certain situations. Where an offence is alleged on the part of a company, the

instructions are issued to withdraw the prosecutions. The classic situation is with regard to the non-implementation of pollution control measures as far as motor vehicles are concerned in the City of Bangalore which has within just one decade reduced Bangalore which was renowned as a Garden City to the status of Most Polluted City in India. It is imperative, therefore, for this Court to take a very stringent view of the situation and to ensure that immediate and appropriate action in consonance with law is taken. It is virtually a matter of survival that is involved.

5. The role of the Courts in relation of this category of cases in this State has not been very encouraging. The learned advocate who represented the Board pointed out that whenever a prosecution is instituted on grounds of pollution that having regard to the seriousness of the case and the implications of the offence, that it is very necessary to take immediate action so that the damage is minimised. He points out that the subordinate Courts have been delaying the disposal of these cases for years together as the accused keep asking for adjournments on all sorts of frivolous grounds and that finally, ridiculously low punishments are awarded as a result of which the accused, particularly if they happen to be corporate bodies, are least bothered about the prosecutions. Where the Board issues notices, there are a large number of cases in which political directions intervene and no action can be taken. It would be necessary for the Govt. to give an assurance that no officer of the Govt. at any level will misuse his position in this regard in future. Similarly, the trial Court shall ensure that the cases are disposed of with the least delay and that a rigorous view is taken in pollution offences as is the case in all other parts of the world.

6. There is one other distressing aspect of the matter which unfortunately again concerns the Courts and in respect of which area some introspection and corrective action has become necessary. The finest manner of stalling action in these cases is by getting proceedings stayed and an investigation indicates that on all sorts of frivolous/technical grounds, the proceedings are stayed and are virtually put into cold storage. A classic indication is with regard to this petition where the offence itself is 8 years" old and where in the year 1993 on some hyper-technical ground which was hardly of any substance, the said order was obtained from this Court which has continued for 4 years. It may be that only one side of the case was presented or that a Court may be misled while passing a stay order but I see no ground to justify the inaction on the part of the Board and its officers who have not even applied to the Court to vacate the stay order and dispose of the proceeding. That is a sad reflection on the level of responsibility that one expects from them.

7. No case for interference has been made out. The petition stands disposed of. Interim stay vacated.

8. The Registrar General shall forward a copy of this judgment to the Chief Secretary to Government of Karnataka as also to the Chairman, Karnataka State Pollution Control Board both of whom shall acknowledge the receipt of the Court

order and shall indicate to this Court that the observations contained in the order have been noted and that the same will be implemented. A copy of the order shall also be forwarded to all the District Judges in the State of Karnataka with a direction that the observations of this Court be brought to the notice of all Judicial Officers in the District dealing with these cases for necessary implementation.

9. Petition dismissed.