
(1996) 05 RAJ CK 0023
In the Rajasthan High Court
Case No : Criminal Appeal No. 124 of 1996

State of Rajasthan

APPELLANT

Vs

Bhikam Chand

RESPONDENT

Date of Decision : 24-05-1996

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 473
Factories Act, 1948 — Section 92

Citation : (1996) 3 RCR(Criminal) 592 : (1996) 2 RLW 221 : (1996) 3 WLC 298 : (1996) 1 WLN 500

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Final Decision : Allowed

Judgement

B.J. Sethna, J.—Heard the learned counsel for the parties. The state has challenged the Impugned order dated 21.9.1995 passed by the Civil Judge cum Judicial Magistrate. Loonkaransar dismissing the complaint only on the ground of limitation and acquitting the accused from the offences punishable u/s 92 of the Factories Act.

2. Learned Public Prosecutor Shri Bhati vehemently submitted that the learned Magistrate has in undue haste dismissed the complaint on the ground of limitation.

3. He submitted that the complaint was filed in time. It was pointed out that the complainant received information regarding accident on 6.6.91 as per the evidence of the complainant. It clear appears that he received notice of the accident in the factory on 6.6.91. The accident took place on 6.5.91 and the information was given by the factory owner on 17.5.91. It is only after the Inspector completed the enquiry and submitted his report the Limitation period would start. The complaint was filed on 23.8.91 which was within the period of limitation of three months from the date of notice i.e. 6.6.91. Therefore, the learned Magistrate was wrong in dismissing the complaint on the ground of

limitation and acquitting the accused for the offence punishable u/s 92 of the Factories Act for which he was charged. However, the learned counsel Mr. Garg for the respondent tried to argue and support the order passed by the learned Magistrate. He also tried to rely on the Judgment of Supreme Court reported in 1973 S.C. 309 which in fact was relied upon by the learned Public Prsecutor at the time" of admission as well as today. In my opinion, the Judgment cited above supports the prosecution rather than the accused and, therefore, the submission made by Mr. Garg cannot be accepted.

4. It must be stated that the short cut adopted by the learned Magistrate in disposing of such type of cases is required to be condemned in the strongest words. The courts are meant to do substantial justice and not to throw out the cases of this nature on such a technical ground of divilation. In a cases like this. Where the worker received injury while on duty in factory and other type of economic offence it is the duty of the court to decide the case on merits and not to dispose of the case on the ground of limitation. In this case the complaint was in time and, therefore, the order of learned Magistrate was required to be set aside. However, if this Court come to the other conclusion that the complaint was beyond time and the order of the learned-Magistrate was legal to that extent then also the order passed by the learned Magistrate would have been set aside as the learned Magistrate has not at all considered the provisions of Section 473 of Cr.P.C. u/s 473 of Cr.P.C. vide powers are given to the courts to take cognizance of the offence on a complaint even after the expiry of period of limitation by condoning the delay in the interest of justice. The delay of few days or even months should ordinarily be condoned and the matter should not be thrown out on the technical ground of limitation. All the courts below are require to adopt liberal approach as held by the Hon"ble Supreme Court in 1987 S.C. 1353. Therefore, even if, the complaint was filed beyond time then also I would have remanded the matter to the learned Magistrate with a direction to decide the matter in accordance with law after condoning the delay. But, that is not the case here. Therefore, no such direction is required to be given.

5. In view of the above, this appeal succeeds and the impugned order dated 21.9.95 passed by the learned Magistrate is set aside. The learned Magistrate is directed to proceed further with the case in accordance with law from the stage where the case was closed by him and he shall see to it that the case is disposed of as early as possible preferably within six months. Respondent accused is directed to appear before the learned Magistrate on 8th July, 1996 and from that date onwards the learned Magistrate shall proceed with the case and decide the same as directed above. The copy of this Judgment be circulated to all the courts below of the state.