

(1999) 08 MAD CK 0078

In the Madras High Court

Case No : Criminal O.P. No. 18265 of 1998 and Criminal M.P. 8315 of 1998

Vaithilingam and another

APPELLANT

Vs

State by Additional Deputy Commissioner of Police and
another

RESPONDENT

Date of Decision : 04-08-1999

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 408, 420, 468, 471, 477

Citation : (1999) 2 CTC 758 : (1999) 2 LW(Cri) 629

Hon'ble Judges : N. Dhinakar, J

Bench : Single Bench

Advocate : Mr. K.A. Panchapagesan, for the Appellant; Mr. M. Babu Muthu
Meeran, for the Respondent

Judgement

1. Petitioners are two in number and they are the accused in Crime No. 376 of 1992 registered at Triplicane Police Station on 27.11.1992 for

offences under Sections 408, 477-A, 468, 471 and 420 IPC.

2. The above proceedings came to be initiated under the following circumstances. The first petitioner was the Manager of Tamil Nadu Industrial

Co-operative Bank Limited and the second petitioner was the Assistant Cashier in the said Bank during the period 1988-89.

3. Four cheques were drawn on the account of a dead man between 2.12.1988 and 5.1.1989 and the total amount involved was Rs. 8,000.

When the matter came to be knowledge of the authorities, an enquiry was ordered and several enquiries were conducted without any result.

Ultimately, the institution sent a complaint to the Commissioner of Police on 26.5.1992 and the Commissioner of Police in turn forwarded the same

to Triplicane Police Station for registration and investigation and accordingly, the above crime came to be registered as stated earlier.

4. Learned counsel for the petitioners submits that in spite of the registration of the crime in the year 1992, no investigation has commenced in the

said crime and the petitioners are put to grave prejudice on account of the long delay in conducting the investigation. Under the circumstances, the

counsel contends that the proceedings in the said Crime No. 376 of 1992 have to be quashed. I have heard the Government Advocate (Criminal

Side).

5. It is seen from the submissions made by the Government Advocate that a complaint sent to the Commissioner of Police was transferred to

Triplicane Police Station where a crime was registered on 27.11.1992 and the crime was later transferred to the Central Crime Branch on

9.10.1995 for investigation. There is no explanation as to what transpired between 27.11.1992 when the crime was registered at Triplicane Police

Station and 9.10.1995 when the same was once again transferred to Central Crime Branch for investigation. It is clear that there was no

investigation between 27.11.1992 and 9.10.1995 and the investigating officer in Crime No. 376 of 1992 did not investigate the matter; but the

crime was only transferred after three years to Central Crime Branch. It is also seen that though the crime was transferred to Central Crime

Branch, the papers were not received since they were misplaced by a Head Constable and the investigation is yet to commence. The Government

Advocate (Criminal Side) submits that an enquiry has been ordered against the Head Constable, who has misplaced the papers - the papers being

the complaint given by the institution and the F.I.R. registered at Triplicane Police Station.

6. It is stated that the investigation is yet to take off though more than seven years have elapsed since the date of the complaint. I feel that the

contention of the counsel for the petitioners that the long delay in investigation is a ground for quashing the F.I.R. is justified on the face of this case.

,p>7. In Abdul Rehman Antulay v. R.S. Nayak, 1992 SCC (Cri) 93, the Supreme Court referred to the judgment of the Patna High Court in

Madheshwardhari Singh and Another Vs. State of Bihar, , which considered five questions, viz.

(1) Whether the fundamental right to a speedy public trial enshrined in Article 21 of the Constitution by Precedential mandate is confined to only capital offences or is attracted to all offences generically?

(2) Whether the aforesaid right to a speedy trial is applicable only to the proceedings in Court *stricto sensu* or includes within its sweep the preceding police investigation as well?

(3) Is a speedy trial equally mandated by both the letter and spirit of the Code of Criminal Procedure, 1973?

(4) Whether the ratio in *Ramdaras Ahir* case and in *Maksudan Singh* case are applicable equally to all offences and irrespective of the fact whether the proceedings are a trial or an appeal against acquittal?

(5) Whether an outer time-limit to concretise the right to a speedy public trial is envisioned by principle of precedent?

8. The Supreme Court approved the view of the Patna High Court that right to speedy trial flowing from Article 21 encompasses all the stages, namely the stage of investigation inquiry, trial, appeal, revision and re-trial, and that there is no reason to understand this right differently by taking a restricted view.

9. The facts in the present case attract the law laid down by the Supreme Court in the case referred to *supra*. It is clear that though a crime was registered in the year 1992, investigation has not commenced so far and it remains only as a crime. I feel that allowing the proceedings to continue in the above crime any longer will result in miscarriage of justice since the accused is entitled to a speedy trial which is denied to them on account of the delay in investigation. Therefore, the proceedings in Crime No. 376 of 1992 are quashed. The petition is allowed. Consequently, CrI.M.P. No.

8315 of 1998 is closed.