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ANUKUL CHANDRA PRADHAN

v.

UNION OF INDIA AND ORS.

OCTOBER 7, 1996

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[J.S. VERMA AND B.N. KIRPAL, JJ.]

Constitution of India 1950 :

C *Articles 21 and 32—C.B.I. inquiry against public functionaries—Directions by this Court to investigate into the accusations against the persons concerned—Charge-sheets filed by C.B.I. in three cases—Held, in view of the fact that charge-sheets have been filed in the cases in competent court, it is that court which is now to deal with the case on merits—Any direction considered necessary for further investigation etc. is within the domain of the court concerned—The purpose of this proceeding is to command performance of the duty under law to properly investigate into the accusation of commission of the crime and to file a charge-sheet in the competent court if a prima facie case is made out—This purpose has been served in three cases—This proceeding has come to an end in so far as it relates to the said three Criminal Cases—For the remaining part it is to continue till the end result prescribed by law is achieved—Unless prevented by any dilatory tactics of the accused, all trials of this kind involving public men should be concluded most expeditiously preferably within three months of commencement of the trial.*

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Vineet Narain & Ors. v. Union of India & Ors., [1996] 2 SCC 199, referred to.

CIVIL ORIGINAL JURISDICTION : Writ Petition (C) No. 640 of 1995.

(Under Article 32 of the Constitution of India.)

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Anil B. Divan, (AC), Mukul Mudgal, (AC), (Anukul Chandra Pradhan) (In-person), A.K. Sahu and R.S. Sodhi, for the Petitioners.

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Ashok Desai, Attorney General, T.R. Andhyarujina, Solicitor General, Dr. A.M. Singhvi, (Sushil Kr. Jain), (NP), P. Parmeshwaran, Pallav Sisodia and B.K. Prasad for the Respondents.

The following Order of the Court was delivered :

The nature of this proceeding is similar to that of W.P. (Crl.) Nos. 340-343 of 1993 - *Veneet Narain & Ors. v. Union of India Ors.*, It was made clear at the outset and reiterated from time to time in this proceeding to the Revenue Secretary, Director of C.B.I. and the other Government officials that the orders made in W.P. (Crl.) Nos. 340-343 of 1993 regarding the mode of functioning of all the officials equally apply in the present case also. This is how, we have been assured by the learned Attorney General, is the mode of functioning of all the officials in the present case also. It is needless to say that this manner of functioning by them has to continue.

For ready reference, an extract from one such order of particular significance is quoted herein for emphasis. The order is dated 30-1-1996, reported in [1996] 2 SCC 199, wherein it was said :

"3. The facts and circumstances of the present case do indicate that it is of utmost public importance that this matter is examined thoroughly by this Court to ensure that all government agencies, entrusted with the duty to discharge their functions and obligations in accordance with law, do so, bearing in mind constantly the concept of equality enshrined in the Constitution and the basic tenet of rule of law: "Be you ever so high, the law is above you." Investigation into every accusation made against each and every person on a reasonable basis, irrespective of the position and status of that person, must be conducted and completed expeditiously. This is imperative to retain public confidence in the impartial working of the government agencies.

4. In this proceeding we are not concerned with the merits of the accusations or the individuals alleged to be involved, but only with the performance of the legal duty by the government agencies to fairly, properly and fully investigate into every such accusation against every person, and to take the logical final action in accordance with law.

5. In case of persons against whom a *prima facie* case is made out and a charge-sheet is filed in the competent court, it is that court which will then deal with that case on merits, in accordance with law.

A In accordance with the directions so given, it has been reported to us that chargesheets have been filed by the C.B.I. in two cases and the Delhi Police in one case which they were investigating. These cases are :

(1) St. Kitts' Forgery case.
(Chargesheet filed by C.B.I.)

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(2) Lakhubhai Pathak Cheating case.
(Chargesheet filed by C.B.I.)

(3) Rajendra Jain case
(Chargesheet filed by Delhi Police)

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In view of the fact that chargesheet has been filed under Section 173 Criminal Procedure Code in each of the above three cases in the competent court, it is that court which is now to deal with the case on merits, in accordance with law. Any direction considered necessary for further investigation, if any, or to proceed against any other person who also appears to have committed any offence in that transaction, is within the domain of the concerned court according to the procedure prescribed by law. The purpose of this proceeding is to command performance of the duty under law to properly investigate into the accusation of commission of the crime and to file a chargesheet in the competent court, if a *prima facie* case is made out. This purpose has been served in the above three cases, in respect of which no further action in this proceeding is called for.

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Accordingly, this proceeding has come to an end, in so far as it relates to the above three criminal cases. For the remaining part, it is to continue till the end result prescribed by law is achieved. The concerned court in which the chargesheet has been filed has to proceed entirely in accordance with law without the slightest impression that there is any parallel proceeding in respect of the same matter pending in this court.

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We may also observe, that the concerned court dealing with the above matters has to bear in mind that utmost expedition in the trial and its early conclusion is necessary for the ends of justice and credibility of the judicial process. Unless prevented by any dilatory tactics of the accused, all trials of this kind involving public men should be concluded most expeditiously, preferably within three months of commencement of the

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trial. This is also the requirement of speedy trial read into Article 21.

A note of caution may be appropriate. No occasion should arise for an impression that the publicity attaching to these matters has tended to dilute the emphasis on the essentials of a fair trial and the basic principles of jurisprudence including the presumption of innocence of the accused unless found guilty at the end of the trial. This requirement, undoubtedly has to be kept in view during the entire trial. It is reiterated, that any observation made by this Court for the purpose of the proceedings pending here has no bearing on the merits of the accusation, and is not to influence the trial in any manner. Care must be taken to ensure that the credibility of the judicial process is not undermined in any manner.

This proceeding is to continue in respect of the remaining matters only which are incomplete.

A copy of this order be sent to the concerned court in each of the above three cases.

R.P.

Petition disposed of.