

USHA AHUJA
v
STATE OF HARYANA AND ORS.

AUGUST 24, 1999

[K. VENKATASWAMI AND
SYED SHAH MOHAMMED QUADRI, JJ.]

*Code of Criminal Procedure, 1973—Section 482—Inherent power—
Exercise of—High Court staying the filing of final report on the ground of
pendency of civil suit—Held, stay is erroneous.*

The appellant and respondent no. 2 were partners. Appellant filed a complaint against respondent nos. 2 and 3 alleging commission of offence under Sections 405, 406 and 408 of I.P.C. A civil suit was also pending between the parties for dissolution of the partnership firm and for rendition of account. The respondents filed a petition under Section 482 Cr.P.C. before the High Court and the High Court, taking note of the pendency of the civil suit, stayed the filing of final report by the police till the decision of the suit. The appellant filed an appeal before this Court against the order of the High Court.

Allowing the appeal, this Court.

HELD : 1. The width of power of the High Court under Section 482 Cr.P.C., in principle is very expansive but in practice the power is exercised in exceptional cases. The inherent power of the Court is not an unrestricted power to make any order which the High Court desires to pass. The power is meant to be exercised to give effect to any order under Cr.P.C. or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. [675-A]

2. The impugned order serves no useful purpose and it is wholly extraneous to the purposes for which power is preserved. It is of utmost importance that criminal cases be disposed of expeditiously as right of an accused to have speedy trial is a right which follows from Article 21 of the Constitution of India. Far from ensuring speedy trial the High Court placed embargo at the pre-trial stage by staying the filing of final report by the police under Section 173 Cr.P.C. It is a well-known fact that disposal of a

- A** civil suit takes fairly long time, so no useful purpose will be achieved by staying the filing of the final report under Section 173 Cr.P.C. by the police till the disposal of the suit. [675-B, C]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 842 of 1999.

B

From the Judgment and order dated 17.4.98 of the Punjab & Haranaya High Court in CrI. M. No. 24679 of 1997.

Puneet Bali, for Hari Shanker K. for the Appellant.

C

R.F. Nariman, (Mahabir Singh) (NP) and S.C. Mahan, Tarun Dua and K.C. Dua for the Respondents.

The Judgment of the Court was delivered by :

SYED SHAH MOHAMMED QUADRI, J. Leave is granted.

D

The appellant and the second respondent were partners of partnership firm, M/s. Jupiter Industries. A complaint was lodged against the second and third respondents, FIR No.193, under Sections 405, 406 and 408, IPC at the Police Station, Mujessar, District Faridabad on July 19, 1996. A Civil Suit is pending between the parties for dissolution of the partnership firm and rendition of accounts. The said respondents filed Criminal Misc.Petition 24679-M of 1997 before the High Court of Punjab & Haryana praying to quash the FIR. The High Court by its order dated April 17, 1998, having noticed that a Civil Suit is pending between the parties and investigation on the complaint of the appellant by the police is in progress, stayed the filing of the final report under Section 173, Cr.P.C. by the police. It is from that order, this appeal has arisen.

E

F

Heard the learned counsel for the parties.

G

The relevant portion of the impugned order of the High Court reads as follows :

“In view of the facts and circumstances of the case, it appears to be reasonable, if the filing of the final report under Section 173, Cr.P.C. is stayed till the decision of the suit. Ordered accordingly.”

H

It is now well-settled that the width of power of the High Court under

Section 482 Cr.P.C., in principle, is very expansive but in practice the power is exercised in exceptional cases. The inherent power of the Court is not an unrestricted power to make any order which the High Court desires to pass. The power is meant to be exercised to give effect to any order under Cr.P.C. or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. By passing the impugned order, the High Court did not achieve any of the purposes for which the power exists. It does no good to anybody. It is of utmost importance that criminal cases be disposed of expeditiously as right of an accused to have speedy trial is a right which flows from Article 21 of the Constitution. Far from ensuring speedy trial the High Court placed embargo at the pre-trial stage by staying the filing of final report by the police under Section 173 Cr.P.C. It is a well-known fact that disposal of a civil suit takes fairly long time, so no useful purpose will be achieved by staying the filing of the final report under Section 173 Cr.P.C. by the police till the disposal of the suit. The impugned order serves no useful purpose, nay, it is wholly extraneous to the purposes for which the power is preserved. In our view, it is most inappropriate to stay the filing of the final report by the police under Section 173 Cr.P.C. after the police has investigated the case. We are, therefore, unable to sustain the order under appeal; we set aside the same. Let further steps be taken in accordance with law. Appeal is accordingly allowed.

B.K.M.

Appeal allowed.