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ALADANKANDU PUTHIYAPURAYIL ABDULLA

v.

FOOD INSPECTOR, CANNANORE & ANR.

July 16, 1979

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[V. R. KRISHNA IYER AND A. P. SEN, JJ.]

Delay in disposal of cases—High Court should give peremptory direction for quick disposal.

HELD : The trial courts in the country should ensure that in the spirit of Article 21 of the Constitution, food adulteration cases which involve imprisonment are tried expeditiously so that neither the prosecution nor the accused is prejudiced by unusual judicial procrastination. The High Court concerned should issue peremptory directions to the trial judges demanding expeditious disposal of cases. The State Government has a duty to sanction the required courts in obedience to the mandate of Article 21 which implies judicial justice without undue delay. [4H, 5A-B]

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It would be for the State Government in the instant case to consider at all whether it should exercise its power of remission and its impact on the society. [5D-E]

CRIMINAL APPELLATE JURISDICTION : Special Leave Petition (Crl.) No. 489 of 1979.

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From the Judgment and Order dated 9-11-1978 of the Kerala High Court in Crl. R.P. No. 260/77.

K. T. Harendra Nath and *T. T. Kunhikannan* for the Petitioner.

The Order of the Court was delivered by

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KRISHNA IYER, J.—The Petitioner has pressed before us certain points of law which have not been urged before the High Court and so we are unable to examine the tenability of those points. For this reason, petition must be dismissed.

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Counsel drew our attention to the fact that although the episode, which is the subject matter of the prosecution under section 16 (1A) (i) read with section 7(i) and section 2(1A) of the prevention of Food Adulteration Act, took place allegedly in 1972. There was inexplicable, inordinate delay in trial. The case was tried in 1977 which, according to counsel, prejudiced the petitioner considerably. We are aghast at the traumatic impact on criminal justice inflicted by delayed trials when human memory becomes faded and vivid testi-

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mony is withheld. The present case is an instance in point. We feel strongly that the trial courts in the country should ensure that, in the spirit of Article 21 of the Constitution, food adulteration cases,

which involve imprisonment, are tried expeditiously so that neither the prosecution nor the accused is prejudiced by unusual procrastination. We express the hope that the High Court concerned will issue peremptory directions to trial Judges demanding expeditious disposal of such cases. In the present case, prosecution evidence, as regards taking of samples, is perhaps not as good as it would have been had the trial been prompt. We do not want forensic martyrdoms for prosecutions in food adulteration cases, thanks to tarred trials blameable on the judicial process. The State Government has a duty to sanction the required courts in obedience to the mandate of Article 21 which implies judicial justice without undue delay.

Maybe, there is some grievance for the petitioner that he was disabled in defending himself properly, hampered by the lapse of five years, but unfortunately the point was not pressed before the High Court; and, we do not think it proper to investigate the substantiality of the prejudice.

As for the sentence, true that, in this case, it is not shown that the petitioner is a big merchant. Perhaps he was a petty dealer and counsel represents that the trade has been wound up. It is also submitted that the petitioner has served about three months out of the six months of imprisonment. Having regard to the totality of circumstances, it is open to the petitioner to move the State Government to remit the remaining portion of the sentence, if so advised, and it would be for the Government to consider at all whether it should exercise its power of remission and its impact on society.

N.K.A. *Petition dismissed.*