

NIMEON SANGMA & ORS.

v.

HOME SECRETARY, GOVT. OF MEGHALAYA & ORS

April 30, 1979

[Y. R. KRISHNA IYER, R. S. PATHAK AND A. D. KOSHAL, JJ.]

Administration of Justice—Pre-trial detention—Expeditious disposal of cases including investigations and trials—Sections 167, 209 & 309 of Criminal Procedure Code, 1973.

In their petition for the issue of a writ of habeas corpus, the petitioners alleged illegal detention of a large number of persons under guise of the judicial process.

HELD : 1. Criminal Justice breaks down at a point when expeditious trial is not attempted while the affected parties are languishing in jail. The Criminal Procedure Code in Sections 167, 209 and 309 has emphasised the importance of expeditious disposal of cases including investigations and trials. [786E]

2. The State Government to take a policy decision with a view to ensure that accused persons, too indigent to set in motion the judicial process, do not suffer incarceration silently. [787B]

3. The Government will do well to comply with the spirit of the Code of Criminal Procedure especially in the matter of persons sought to be bound over for good behaviour, persons against whom summons cases are pending and persons who have been in custody for more than six months. This will involve a mass release from jails, but Government has to pay homage in substance and reality to the provisions of the Constitution and the Code. [787C]

The Court directed that :—

(a) The State do consent to release all persons who have been in custody for over six months and whose trials have not commenced or against whom charge sheets have not been laid excepting in those cases under Sections 302 and 395 I.P.C. [786G]

(b) The State shall complete investigation within two months in cases where charge-sheets have not been laid. [786H]

(c) The Sessions Court concerned should dispose of the cases where charge-sheets have been laid and commitment has been made within six months. [786H]

CRIMINAL ORIGINAL JURISDICTION : Writ Petition No. 211 of 1979.

K. Hingorani for the Petitioners.

D. N. Mukherjee for the Respondents.

The Order of the Court was delivered by

KRISHNA IYER, J.—This is a petition for the issuance of a writ of habeas corpus in view of alleged illegal detention of a large number of persons under guise of the judicial process.

A Even without going into details, we are satisfied that petitioners Nos. 3 and 4 should be released on their own bonds to the satisfaction of the trial court subject to their reporting to the nearest police station once every fortnight and appearing in court whenever called upon to do so to take their trial. We direct accordingly.

B So far as petitioner No. 1 is concerned, the State in its affidavit swear that there is no such person in custody in connection with any case. This matter will be scrutinised further by the State so that it may satisfy itself that no one is in custody except under due process of law.

C This Court in its earlier order dated March 5, 1979 has directed the State to file a statement containing particulars of the under-trial prisoners who have been confined in Jail for a period of over six months without their trials having commenced. Further details as to the ages of such under-trials, the dates from which they were confined and the offences with which they were charged were also called for. In the reply statement put in by the respondent, we find a large number of cases where **D** detention for considerable periods, without the trial having even commenced, is being suffered by various persons. Criminal justice breaks down, at a point when expeditious trial is not attempted while the affected parties are languishing in jail. The Criminal Procedure Code in sections 167, 209 and 309 has emphasised the importance of expeditious disposal of cases including investigations and trials. It is unfortunate, indeed pathetic, that there should have been such considerable delay in investigations by the police in utter disregard of the fact that a citizen has been deprived of his freedom on the ground that he is accused of an offence. We do not approve of this course and breach of the rule of law and express our strong displeasure at this chaotic state of affairs verging on wholesale breach of human rights guaranteed under the Constitution especially under Article 21 as interpreted by this Court. **E**

Even so we do not wish to pass any orders at the moment until more particulars are brought to our notice. It will suffice for the present—and counsel for the State assures us that any direction given by this Court will be promptly complied with—that we direct the State to consent to release all persons who have been in custody for over six months and whose trials have not commenced or against whom charge sheets have not been laid. But make one exception in cases where sections 302 and 395, IPC are involved. We direct that the State shall complete the investigation within two months from today where charge sheets have not been laid and further direct the Sessions Court concerned to dispose of the cases where charge sheets have been laid and commitment has been made, within six months from today. A report will be made to **G** **H**

this Court at the end of six months from today by the State. We must emphatically record our view that there has been a self-condemnation in the statement put in by the State Government in that in quite a number of cases which are not of a serious character and even in those which involve serious offences, investigations have been pending for nearly two years. There are cases where persons have been in custody for five years—a situation too ghastly for a civilised country like ours. We therefore draw the attention of the State Government to take a policy decision with a view to ensure that accused persons, too indigent to set in motion the judicial process, do not suffer incarceration silently. The Government will do well to comply with the spirit of the Code of Criminal Procedure especially in the matter of persons sought to be bound over for good behaviour, persons against whom summons cases are pending and persons who have been in custody for more than six months. Maybe this will involve a mass release from Jails, but Government has to pay homage in substance and reality to the provisions of the Constitution and the Code. With these observations, and directions, we dispose of this petition.

N.V.K.

Petition disposed