

Before : S. S. Grewal, J.

KEWAL KRISHAN,—Petitioner.

*versus*

THE GOVERNMENT FOOD INSPECTOR, U.T., CHANDIGARH &  
ANOTHER,—Respondents.

*Criminal Misc. No. 3348-M of 1987.*

22nd March, 1991.

*Constitution of India, 1950—Art. 21—Prevention of Food Adulteration Act, 1954—S. 7, S. 16(1)(a)(i), 9(1), 21—Code of Criminal Procedure, 1973 (II of 1974)—S. 482—Criminal proceedings initiated against the petitioner on complaint filed by Food Inspector—Proceedings pending in the trial Court for six years—Trial Court following warrant procedure instead of procedure meant for summary trial—Miscarriage of justice and negation of fundamental right to speedy trial—Proceedings quashed.*

*Held*, that pendency of criminal proceedings for the last six years mainly due to the negligence on the part of the trial Court erring in following warrant procedure instead of following the procedure meant for summary trial certainly amounts not only to miscarriage of justice and abuse of the process of the Court but also amounts to negation of fundamental right of speedy trial to which the petitioner was entitled under Article 21 of the Constitution, particularly, when the allegations in the case merely amount to technical offence under the Act or the Rules framed thereunder.

(Para 6)

*Petition under section 482 Cr. P.C. praying that petition be accepted and the prosecution of the petitioner by the Court of Judicial Magistrate 1st Class, Chandigarh, be quashed.*

*It is further prayed that further proceedings pending before Shri D. K. Monga, Judicial Magistrate 1st Class, Chandigarh may kindly be stayed till the decision of this petition.*

R. K. Garg, Advocate, for the Petitioner.

Anand Swaroop, Sr. Advocate with Sunidh Kashyap, Advocate,  
for Respondent No. 2.

#### JUDGMENT

S. S. Grewal, J. (Oral)

(1) This petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code) relates to quashment of complaint filed by the Food Inspector (respondent No. 1) for

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prosecution of the petitioner concerning commission of an offence under Section 7 read with Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as the Act) and the consequent proceedings taken thereunder.

(2) In brief fact relevant for the disposal of this petition as emerge from the complaint (Annexure P/1), are, that on 13th March, 1985, at about 11.30 A.M. Shri Balbir Singh, Food Inspector went to the premises of the present petitioner and after duly taking sample of corroborated water lemon meant for sale, as required under the relevant Rules, sent one sealed bottle to the Public Analyst along with copy of memorandum in form VII in a sealed packet. As per report of the Public Analyst the contents of the sample contained suspended matter and were contaminated with coliform bacteria. The contents also contained tartrazine coal-tar food colour without label declaration as required under Rules 24 and 32 of the relevant Rules, 1955.

(3) The learned counsel for the parties were heard.

(4) In view of the Single Bench authority of this Court in *Nirmal Singh v. Union Territory, Chandigarh* (1), the objection taken by the petitioner that the Food Inspector in the instant case was not appointed by the appropriate Government under Section 9(1) of the Act, or, that the prosecution was not launched, or, initiated by a person duly authorised to do so under Section 21 of the Act was not pressed. It was mainly submitted on behalf of the petitioner that the trial against the petitioner commenced before the trial Court on 16th April, 1985 after the Food Inspector filed the complaint in the trial Court and that the said trial has not been yet completed and that the same has been unnecessarily prolonged for six years resulting in miscarriage of justice and denial of inherent right of speedy trial enshrined under Article 21 of the Constitution of India.

(5) Reliance in this respect has rightly been placed on Full Bench authority of Patna High Court in *Madheshwardhari Singh and another v. State of Bihar* (2), wherein it was held that the right of a speedy public trial is now an inalienable fundamental right of a citizen under Article 21 of the Constitution. It has further been ruled that a callous and inordinately prolonged delay of seven years or more (which was

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(1) 1990 (2) C.C. Cases (HC) 111.

(2) 1986 CrI. L.J. 1771.

**Transport Corporation of India Ltd., Chandigarh v. Haryana State Industrial Development Corporation Ltd., Chandigarh (V. K. Jhanji, J.)**

not occasioned by any extraordinary or exceptional reason) in investigation and original trial for offences other than capital ones, plainly violates the constitutional guarantee of a speedy public trial under Article 21 of the Constitution.

(6) The inordinate delay in completion of trial in the instant case has occurred mainly due to the negligence on the part of the trial Court which erred in following warrant procedure instead of following the procedure meant for summary trial, without passing any specific order that the nature of the case was such that a sentence of imprisonment for a term exceeding one year ought to have been passed, or, that for any other reason it was undesirable to try the case summarily as contemplated under proviso 1 and 2 to Section 16(2) of the Act which came into force on 1st April, 1976 much before the impugned complaint was filed in the trial Court. Thus pendency of Criminal proceedings for the last six years certainly amounts not only to miscarriage of justice and abuse of the process of the Court but also amounts to negation of fundamental right of speedy trial to which the petitioner was entitled under Article 21 of the Constitution, particularly when the allegations in the instant case merely amount to technical offence under the Act and the Rules framed thereunder. I find support in my view from the Single Bench authority of this Court in *Dharam Pal v. State of Haryana* (3).

(7) For the foregoing reasons, the complaint Annexure P/1 and the resultant proceedings pending in the trial Court against the petitioner are hereby quashed. This petition is accordingly allowed.

R.N.R.

Before : V. K. Jhanji, J.

TRANSPORT CORPORATION OF INDIA LTD., CHANDIGARH.—  
*Petitioner.*

*versus*

HARYANA STATE INDUSTRIAL DEVELOPMENT CORPORATION LTD., CHANDIGARH,—  
*Respondent.*

Civil Revision No. 74 of 1991.

15th April, 1991.

Code of Civil Procedure (V of 1908)—S. 47, O. 21 rl. 58—Companies Act, 1956—S. 536(2)—HSIDC seeking execution of decree against

(3) 1990 (2) C.C. Cases 287 (HC).