

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

WRIT PETITION (CRL.) NO(s). 95 OF 2004

A.K. SINHA & ANR.

Petitioner(s)

VERSUS

STATE OF M.P. & ORS.

Respondent(s)

(With appln(s) for bail and office report)

(For final disposal)

Date: 28/07/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s)

Mr. Gaurav Agrawal, Adv.

Mr. Prashant Kumar, Adv.

For Pet.No.2

Mr. Asharaf Choudhary, Adv.

Mr. Ram Ekbal Roy, Adv.

Mr. Anil K. Chopra ,Adv

For Respondent(s)

Mr. Aruneshwar Gupta, AAG

For St. of Rajasthan

Mr. Naveen Kumar Singh, Adv.

Mr. Mukul Sood, Adv.

For St. of M.P.

Mr. C.D. Singh ,Adv.

Ms. Minakshi Sarma, Adv.

For St. of Chhattisgarh

Mr. Atul Jha, Adv.

Mr. Nirmal Mittal, Adv.

UPON hearing counsel the Court made the following

O R D E R

The writ petition is dismissed in terms of the signed order.

(J.S. Rawat) (Ka
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[Signed order is placed on the file.]

[Annexures 1-4 (pages 1-9) referred to at pages 4-5 of the signed order are enclosed].

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CRL) NO. 95 OF 2004

A.K. Sinha & Anr. Petitioner(s)

Versus

State of M.P. & Ors. Respondent(s)

O R D E R

The present writ petition was originally filed by Petitioner No.1,

seeking the following reliefs:

"a) issue a writ, order or direction, declaring that the further imprisonment of the petitioner on the pretext of pendency of trial is violative his rights under Articles 14, 19 and 21 of the Constitution of India; and

b) issue a writ, order or direction directing the respondents to release the Petitioner on bail in all the cases to the satisfaction of the trial court on such terms as this Hon'ble Court may deem fit taking into consideration the special facts of this case; and/or

c) pass any other or further orders as may deem fit and proper in the circumstances of the case and interests of justice."

The accused-original petitioner was facing charges in different courts in the States of Madhya Pradesh, Rajasthan and Chhattisgarh f or

various offences punishable under Sections 420, 406, 467, 471, 120-B etc.

IPC and Section 138 of The Negotiable Instruments Act. The main

allegation against the petitioner is that he as the Director of the Company -

Mahakaushal Plantations Limited, Katni along with the other Directors

cheated the public by collecting huge deposits and misappropriated the

same. It was informed that the other Directors of the Company are

absconding and they are being treated as proclaimed offenders.

Since large number of cases were pending against the petitioner in

different States it was contended on 13th May, 2005 that there is no

likelihood of termination of these cases in near future and consequently he

will have to languish in jail for life. He then came forward with a proposal

for transfer of the cases to one or more specified courts in the respective

States so that the trial can be concluded expeditiously.

The petitioner during the course of hearing on 13th May, 2005

gave up his prayer for bail and confined his relief to the transfer of criminal

cases pending against him at one place in a State for expeditious disposal.

This Court in order to safeguard the interests of the depositors as

also keeping in view the petitioner's right to speedy trial, agreed with the

proposal of the petitioner and issued the following directions on 13th of May, 2005:

"The 68 cases pending in the State of Madhya Pradesh shall be transferred to and tried at Katni, Indore, Shahdol, Bhopal, Sagar, Gwalior, Narsinghpur and Balaghat as per the details given in Annexure-1. The Chief Judicial Magistrate of the respective places shall take steps to assign the cases to one court of Judicial Magistrate of First Class.

The trial shall be held at the above mentioned places in the order in which they are mentioned supra. To elaborate after the conclusion of trial of all cases in Katni the trial of cases in Indore should be taken up.

The 9 cases, details of which are furnished at Annexure-2, pending in Rajasthan shall be transferred to and tried at Kota. The Chief Judicial Magistrate of Kota shall take steps to assign these cases to one Judicial Magistrate of First Class.

Seven cases, details of which are furnished in Annexure-3, pending in Chhattisgarh shall be transferred to and tried at Bilaspur. The Chief Judicial Magistrate of Bilaspur shall take steps to assign these cases to one Judicial Magistrate of First Class.

After disposal of the cases in Madhya Pradesh, the petitioner shall be transferred to a Jail at Kota (Rajasthan) and after trial of the cases at Kota, he shall be transferred to a Jail at Bilaspur.

The cases shall be disposed of expeditiously as far as possible on day-to-day basis. The Police authorities and the Public Prosecutors should take all possible steps to ensure that there is no delay on their part. The detention of the petitioner shall of course be subject to the orders passed on the bail applications. The petitioner on his part, shall not do anything which will hinder expeditious trial.

After the disposal of cases in each State or all States, the petitioner is at liberty to approach this Court for appropriate directions as to the execution of sentences, if any imposed.

As regards the sale of immovable properties of the Company i.e. land, buildings and plantations, as a prelude to passing an order for directing the sale, we hereby nominate (1) the District Judge, Katni or an officer nominated by him and (2) the District Collector, Katni or an officer nominated by him, to jointly take necessary steps for the sale of the properties. The said two officials shall get the properties of the Company properly evaluated and then cause a notification to be published in the newspapers regarding the

proposed sale inviting objections, if any. If any objections are received the same may be forwarded to the Registry of

this Court. Further directions in regard to sale will be issued after the aforesaid steps are taken. In order to enable the authorised officials to take necessary steps, the petitioner shall initially deposit a sum of Rs.1 lakh towards the expenses with the District Judge, Katni, by 15th June, 2005.

The parties are at liberty to furnish necessary informations and particulars relating to the properties to the authorised officials."

It may be noted that a similar writ petition being WP (Cr1) No. 160

of 2004 was filed by the second petitioner, namely, M.A.H. Khan, who was

a co-accused being the Managing Director of the aforesaid Company and

was charged with similar offences. The said writ petition filed under

Article 32 of the Constitution of India was dismissed as misconceived on

12th September, 2005, reserving liberty with the writ-petitioner to make an

appropriate application. Consequently, the said co-accused moved an

application for impleadment as Petitioner No.2 in the present writ petition,

seeking similar orders as given on 13th May, 2005 with regard to the

criminal cases pending against the original writ-petitioner. On 6th January

2006, in the peculiar facts and circumstances, the applicant-M.A.H. Khan

was ordered to be impleaded as Petitioner No.2 in the present writ petition.

Since the case of the original petitioner as also the second

petitioner proceeds on the same footing, the aforesaid directions contained

in the order dated 13th May, 2005 shall also apply in respect of the criminal

cases pending against the second petitioner as detailed in Annexures 1 to 4

(pages 1-9) to the application for impleadment.

Since the directions for transfer of criminal cases have already

been passed, in our opinion, nothing survives for consideration in this

petition. The cases so transferred shall be tried and decided as expeditiously as possible, in accordance with law.

Subject to the above, the writ petition is dismissed.

Copy of this order be sent to the Registrar General of the concerned High Courts for taking necessary follow up action.

.....J.

.....
(ASHOK BHAN)

New Delhi;
.....J.
July 28, 2006.

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(MARKANDEY KATJU)