

PETITIONER:
MATHEW AREEPARMTIL & ORS.

Vs.

RESPONDENT:
STATE OF BIHAR AND ORS.

DATE OF JUDGMENT 20/09/1984

BENCH:
FAZALALI, SYED MURTAZA
BENCH:
FAZALALI, SYED MURTAZA
VARADARAJAN, A. (J)
MUKHARJI, SABYASACHI (J)

CITATION:
1984 AIR 1854 1985 SCR (1) 776
1985 SCC (2) 102 1984 SCALE (2) 402

ACT:

HEADNOTE:

Code of Criminal Procedure, 1973, s. 144 and s. 169.

The writ petitioners brought to the notice of the Court that a very large number of people had been languishing in jails without trial for petty offences.

Disposing of the writ petitions,

^

HELD: (1) In all cases instituted against the adivasi accused involving sentence of 7 years or more, they will be entitled to be released on consideration of merit by the court on executing a personal bond. These cases will be disposed of on merits expeditiously. [777E]

(2) In the other cases where trial has already started and which do not come within the first category, indicated above, the accused will be entitled to be released on bail on executing a personal bond in the absence of very special circumstances. [777F]

(3) In cases where no proceedings at all have taken place in regard to the accused within 3 years from the date of the lodging of FIR, the accused should be released forthwith under section 169 Cr.P.C. [777G]

(4) If there are other cases in which neither charge sheet have been submitted nor investigation has been completed during the last three years, the accused concerned should be released forthwith subject to reinvestigation of the said cases on fresh facts and they shall not be arrested without the permission of the Magistrate and where permission is given they would be released by the Magistrate on execution of personal bond. [777H; 778A-B]

(5) Section 144 Cr. P.C. should not be misused and orders under this Section should be passed in the light of principles laid down in 1983 (4) SCC 161 at page 169.

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition (Criminal) Nos. 371-75 of 1983.

(Under article 32 of the Constitution of India)

Govind Mukhoty and Ms. Kamini Jaiswal for the petitioners.

777

L.N. Sinha, K.G. Bhagat, Addl. Sol. General, R. N. Poddar,

P.P. Singh and D. Goburdhan for Respondents.

The Order of the Court was delivered by

FAZAL ALI, J. We have heard counsel for the parties at length and have also gone through the Reports and documents filed by the petitioners. In view of the fact that the counsel for the respondents are more or less agreed to the order we propose to pass, it is not necessary to go into further details.

The facts as gleaned from the Reports and documents reveal a most shocking state of affairs in the region in question. It seems that a very large number of people have been languishing in jails without trial for petty offences. Though most of the said people are alleged to have been released but the main infirmity has not been cured. Without going into further details, we dispose of the petitions in terms of the following Order:

- "(1) In all cases instituted against the adivasi accused concerned which involve sentence of 7 years or more, they will be entitled to be released on consideration of merit by the court concerned only on executing a personal bond. These cases will be disposed of on merits expeditiously.
- (2) In the other cases where trial has already started and which do not come within the first category, indicated above, the accused will be entitled to be released on bail on executing a personal bond in the absence of very special circumstances.
- (3) In the cases where no proceedings at all have taken place in regard to the accused within 3 years from the date of the lodging of FIR, the accused should be released forthwith under section 169 Cr.P.C.
- (4) If there are other cases in which neither charge-sheet have been submitted nor investigation has been completed during the last three years, the accused

778

concerned should be released forthwith subject to reinvestigation of the said case on fresh facts and they shall not be arrested without the permission of the Magistrate and where permission is given they would be released by the Magistrate on execution of personal bond.

We would like to observe that Section 144 Cr. P.C. should not be misused and orders under this Section should be passed in the light of principles laid down in 1983 (4) SCC 161 at page 169.

At the same time, we would like to warn Adivasi accused that they should not take the law in their own hands by shooting or using their arrows on Government Officers or other forest officers. If they have any complaint they can move the appropriate authority and get suitable orders from him.

H.S.K.

779