conclude that in a case where the costs imposed are not paid, on that very date when the costs are to be paid, the attention of the Court should be drawn so that further prosecution of the suit may take place only if necessary compliance has been made. If no such step is taken by the party who intends to invoke the provisions of section 35-B of the Code, and remain silent and allows the court to proceed with the suit he cannot be allowed to agitate the alleged non-payment, if any, after that date. In such a situation, the provisions of section 35-B of the Code are not at all attracted. The whole approach of the trial Court in this respect is wrong and illegal as it has acted illegally and with material irregularity in the exercise of its jurisdiction. The Full Bench decision of this Court in *Anand Parkash's case* (supra), has been wrongly interpreted by the trial Court. Moreover it has been clearly laid down in that case that in the event of the party failing to pay the costs on the date fixed following the date of the order imposing the costs, it is mandatory for the Court to disallow the prosecution of the suit. It means, as stated earlier, that on the next date when the costs are to be paid, necessary order, if any,, under section 35-B of the Code, should be passed by the trial Court.

7. As a result of the above discussion, this revision petition succeeds and is allowed. The impugned order is set aside with costs. Costs assessed at Rs. 200. The parties through their counsel, have been directed to appear in the trial Court on the 10th August, 1982. The trial Court will further proceed with the suit in accordance with law. The records of the case be sent back forthwith.

N K. S.

Before M. M. Punchhi, J.

JAGIR SINGH,—*Petitioner.*

versus

GRAM PANCHAYAT, VILLAGE RAIPUR KALAN AND OTHERS,—*Respondents.*

Criminal Revision No. 674 *of* 1980.

July 22, 1982.

Code of Criminal Procedure (II of 1974)—*Section* 345—*The Punjab Gram Panchayat Act (IV of* 1953)—*Section* 79—*Gram*

Jagir Singh *v.* Gram Panchayat, Village Raipur Kalan and others (M. M. Punchhi, J.)

Panchayat seized of a criminal complaint—Accused who was participating therein alleged to have made abusive remarks—Contempt of the Gram Panchayat—Accused—Whether could be convicted for contempt on a day subsequent to the day when the Gram Panchayat takes cognizance.

Held, that the word 'cognizance' is by now well understood and it means the act of the Panchayat in applying its mind towards the offence involved and for fixing the offender. It is then that the offender is to be given a reasonable opportunity of showing cause why he should not be punished. After the cause has been shown, the Panchayat can then sentence the offender to the extent permitted under the law. Nowhere can it thus be spelled out from the language of section 345, Criminal Procedure Code, 1973 that all these proceedings had to culminate on the same day. Taking cognizance of the offence before the rising of the court on the same day does not mean that the proceedings had to be initiated and finalised on the same day. Section 480 of the old Code finds its substitute in Section 345 of the new Code and here a noticeable change has been brought about inasmuch as the offender has been given now the right to have a reasonable opportunity of showing cause why he should not be punished under this section. This provision has done away with the tightness of the time within which the court was supposed to act under section 480 of the old Code. The reasonable opportunity to be afforded has to be a meaningful opportunity in which the viewpoint of the contemner and his defence has to be taken note of. In the context, it cannot be forgotten that the court while exercising power under section 345 of the new Code is itself the complainant and a Judge of its own cause. The time factor, as involved in section 480 of the old Code, was felt perhaps by the Parliament to be a negation of the right of the contemner to show cause as also to impinge upon a fair inquiry on the subject. Thus, it is only the cognizance of the offence which has to be taken on the same day on which the offence is committed, but the proceedings do not necessarily have to be finalised on that day.

(Paras 4 and 5)

Petition under section 397/401 *Code of Criminal Procedure,* 1973 *for the revision of the order of the court of Shri R. N. Moudgil Judicial Magistrate* 1*st Class, Kharar, dated the* 29*th January,* 1980 *dismissing the revision petition.*

Brij Mohan Lal, Advocate, *for the Petitioner.*

Gurbachan Singh Advocate, *for the Respondent.*

JUDGMENT

M. M. Punchhi, J. (oral)

1. A question pristinely legal, has been raised in this petition for revision, as to whether the Gram Panchayat, exercising criminal

judicial functions can convict a person for its contempt under section 79 of the Gram Panchayat Act read with section 345, Criminal Procedure Code, on a day subsequent to the day it takes cognizance of the offence.

2. On 15th April, 1979, the Gram Panchayat of village Raipur Kalan, tehsil Kharar, district Ropar was in seisin of a criminal complaint under sections 504/323, Indian Penal Code, against the petitioner. The petitioner, who was participating therein as the accused, passed insulting and abusive remarks against the Panchayat using therein filthy and obscene language. Seemingly, the proceedings in that complaint were adjourned and a notice was issued to the petitioner for an offence under section 79(1) of the Gram Panchayat Act, 1952 (hereinafter refered to as the Act). In the said notice, he was required to show cause by being present before the Panchayat on 22nd April, 1979 as to why a sentence of fine be not imposed on him for his having committed the contempt of the Panchayat by using filthy and obscene language, lowering its dignity. The petitioner attempted so, but finally confessed his guilt and regretted his insolent behaviour. The Gram Panchayat then,— vide order dated 22nd April, 1979, convicted the petitioner under section 79(1) of the Act and imposed on him a fine of Rs. 50. The petitioner preferred a revision petition before the Judicial Magistrate Ist Class, Kharar, under section 51 of the said Act and raised a number of points therein, but the same was dismissed on 29th January, 1980. Patently, the point now sought to be raised was not raised before the learned Judicial Magistrate. And now the petitioner for the first time has raised the legal question posed in the opening part of this judgment, for consideration of this Court in this petition, preferred under the provisions of the Code of Criminal Procedure.

Section 79 of the Act is in the following terms :—

"79. *Contempt of Court.*—(1) The provisions of sections 345 and 346 of the Code of Criminal Procedure, 1973 shall apply to judicial proceedings under this Act :

Provided that the fine imposed for contempt of Court shall not exceed one hundred rupees."

It would now be apt to notice the relevant abstracts from sections 345 and 346 of the Code of Criminal Procedure, 1973:—

> "345. *Procedure in certain cases of contempt.*—(a) When any such offence as is described in.....Section 228 of the Indian Penal Code is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court may cause the offender to be detained in custody and may, at any time before the rising of the Court on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding two hundred rupees....."
>
> 346. *Procedure where Court considers that case should not be dealt with under section* 345.—(1) If the Court in any case considers that a person accused of any of the offences referred to in Section 345.....or such Court is for any other reason of opinion that the case should not be disposed of under section 345, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same .....".

3. It is plain from the language of section 345, Criminal Procedure Code, that in proceedings thereunder, cognizance of the offence has to be taken by the Court before the rising of the Court. The learned councel for the petitioner contends that the proceedings thereunder have also to be finalised on that very day and cannot be deferred to be heard for a future date. To be precise, the objection is that the proceedings could have been initiated on 15th April, 1979, and they had to be finalised on that very day, and in no case could they be postponed to be taken up on 22nd April, 1979. The learned counsel further contends that in this manner the Panchayat having failed to employ section 345, Criminal Procedure Code, the only course open to it was to initiate action under section 346, Criminal Procdeure Code.

4. It is undisputed that the Panchayat took cognizance of the offence before the rising of its sitting on the same day i.e. on 15th

April, 1979, as is plain from the reproduction of the notice in paragraph 4 of the petition. The word "cognizance" is by now well understood and it means in the instant context the act of the Panchayat in applying its mind towards the offence involved and for fixing the offender. It is then that the offender is to be given a reasonable opportunity of showing cause why he should not be punished under this section. After the cause has been shown, the Panchayat can then sentence the offender to the extent permitted under the law. Nowhere can it thus be spelled out from the language of section 345, Criminal Procedure Code, that all these proceedings had to culminate on the same day. Taking cognizance of the offence before the rising of the Court on the same day does not mean that the proceedings have to be initiated and finalised on the same day.

5. To be fair to the learned counsel for the petitioner, I must notice two precedents cited by him. The first is *Shankar Krishnaji Govankar* v. *Emperor*, (1), a Division Bench decision of Bombay High Court, in which Beaumont C.J. on the language of section 480 of the Code of Criminal Procedure, 1898 had held that the cognizance and imposition of sentence for a trial under section 480, Criminal Procedure Code, 1898 had to be done on the same day and that there was no power to act on the subsequent day. Similar was the view of a learned Single Judge of the Calcutta High Court in *Sahasrangshu Kanti Acharyya* v. *The State* (2), where reliance was placed on the judgment of the Bombay High Court afore-quoted and section 480, Criminal Procedure Code, 1898, as interpreted by it, was applied to hold that the Court can rely on its own opinion as to what had happened and can detain the offender in custody, take cognizance of the offence and sentence him, but all that must be done before the rising of the Court i.e. in the course of the same day. But, as is plain, section 480 of the old Code finds its substitute in section 345 of the new Code. Here a noticeable change has been brought about in as much as the offender has been given now the right to have a reasonable opportunity of showing cause why he should not be punished under this section. This provision, to my mind, has done away with the tightness of the time within which the Court was supposed to act under section 480 of the old Code. The reasonable opportunity to be afforded to the petitioner has to be

(1) AIR (29) 1942 Bombay 206.

(2) AIR 1968 Calcutta 249.

a meaningful opportunity in which the view point of the contemner and his defence has to be taken note of. In the context, it cannot be forgotten that the Court while exercising power under section 345 of the new Code is itself the complainant and a Judge of its own cause. The time factor, as involved in section 480 of the old Code, was felt perhaps by the Parliament to be a negation of the right of the contemner to show cause as also to impinge upon a fair inquiry on the subject. Thus, as it seems to me, it is only the cognizance of the offence which has to be taken on the same day on which the offence is committed, but the proceedings do not necessarily have to be finalised on that day. The view of the Bombay High Court and that of the Calcutta High Court in the context of section 345 of the new Code do not seem to me any longer valid for the purpose, though it is entitled to all respect for the view to be taken under section 480 of the old Code.

6.. It would also not be out of place to take into account the "objects and reasons" for the change brought in the law :—

> "Clause 345 (original clause 353).—The amendment made in the clause secures that the principles of natural justice should be followed in cases of contempt mentioned therein.—J.C.R."

By the induction of the salutary principle of natural justice, the time scope of the section, to my mind, stands enlarged and at the same time the power of the Court too. An illustration to prove the point be taken note of. Suppose the contempt is itself committed, say five minutes before the Court is expected to rise for the day. Now to say that the offender must be dealt with within those five minutes, and he be given a reasonable opportunity of being heard in observance of the principles of natural justice within that short time, is asking the impossible. The opportunity to be afforded would then be far from being reasonable. And if the Court would grant time, it would be suicidal for its jurisdiction, if the old interpretation of section 480 of the old Code, holds the field. Thus I am of the considered view that it is the cognizance alone which has to take place on the same day when the offence of contempt is committed, and like all trials must be disposed of as expeditiously as possible, but not necessarily on the same day. I would hold accordingly.

7. No other point has been urged.

8. For the foregoing reasons, this petition fails and is hereby dismissed. The question posed at the very outset is answered in the affirmative for the view taken heretofore.

N. K. S.

Before S. S. Sandhawalia, C.J. & K. S. Tiwana, J.

AMRIK SINGH,—*Petitioner.*

versus

STATE OF PUNJAB,—*Respondent.*

Criminal Revision No. 376 of 1979.

July 26, 1982.

Prevention of Food Adulteration Act (XXXVII of 1954) as amended by Act XXXIV of 1976—Sections 2(ia)(m) & 2(xii-a), 7 and 16(1)(a)(i)—Prevention of Food Adulteration Rules, 1955—Rule 22 and Appendix B. Art. A. 18.06—Art. A. 18.06 regarding an article of food not to contain more than five pieces of rodent excreta per Kilogram—250 grammes sample of primary food (Sabat Mash) found to contain inorganic matter more than the prescribed proportion— Analysis of one Kilogram of the food stuff—Whether necessary to establish the infraction of the statute—Deviation from prescribed standard in primary food whether due to natural causes and beyond human agency—Burden of proof under the proviso to clause (m)—Whether lies on the accused—Report of Public Analyst disclosing presence of inorganic matter more than the prescribed standard—Ingredients and nature of such matter—Whether necessary to be stated in the report to establish guilt of the accused ...

Held, that clause (v) of Art. A. 18.06 of Appendix-'B' of the Prevention of Food Adulteration Rules, 1955 itself, in terms mentions that rodent excreta shall not exceed 5 pieces per kilogram of the sample. The framers of the provision clearly had the sample and its quantum in mind whilst prescribing this standard. A reference to rule 22 of the Rules would show that the legislature had itself prescribed the quantity of sample to be sent to the Public Analyst and item 19 thereof, pertaining to pulses, cereals and the like specifically prescribes 250 grams as the approximate quantity to be supplied to the Public Analyst or the Director. Reading this provision together with clause (iv) of A. 18.06, it seems to be patent