

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT
HYDERABAD

-
HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

-
WRIT APPEAL No. 463 OF 2015

Date: 25.06.2015

Between:

Sri Perumal Madhusudhan Rao.

... Appellant

And

The State of A.P., rep., by its Principal Secretary,
Home Department,
Hyderabad & others.

... Respondents

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT**

WRIT APPEAL No. 463 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ appeal is directed against the order dated 29.04.2015 passed by learned Single Judge dismissing the writ petition being misconceived.

The appellant, as observed by learned Single Judge in the impugned order, maintains a gang as 'Ganganapalli Madhu' and that various criminal offences are registered against him and members of his gang. He has filed the instant writ petition seeking direction to the Superintendent of Police, Central Bureau of Investigation, Hyderabad Branch, or Superintendent of Police, Crime Branch, Criminal Investigation Department, Hyderabad, to enquire and investigate into about 23 crimes registered against him in 2014 for the offence punishable under different provisions of the Indian Penal Code, A.P. Forest Act, 1967, A.P. Sandal Wood and Red Sandal Wood Transit Rules, Wild Life Act, 1972 and Biological Diversity Act, 2002.

The appellant claims to be the Member of a political party and alleges that his enemies in the party are instrumental in implicating him in the aforementioned crimes relating to red sanders so as to harm his political career.

We have heard Sri A.T.M. Ranga Ramunajam, learned Senior counsel for the appellant. He placed reliance upon the very same

judgments, which were cited before learned Single Judge, in support of his contention that this is a fit case where all the 23 crimes are required to be investigated by a superior agency in view of the accusation is against the investigating agency. He submitted that in view of the accusation, and the apprehension expressed by the appellant, it is desirable in the larger interest of justice to entrust investigation either to the Central Bureau of Investigation or to any other superior authority.

The judgments relied upon by Mr. Ramunajam before learned Single Judge and so also before this Court are in **R.S. Sodhi v. State of U.P.**^[1], **S.N. Sharma v. Bipen Kumar Tiwari**^[2], **H.N. Rishbud and Inder Singh v. The State of Delhi**^[3], **Ashok Kumar Todi v. Kishwar Jahan**^[4] and **State of West Bengal v. Committee for Protection of Democratic Rights**^[5]. Over and above these judgments, he also placed reliance upon one more judgment of the Supreme Court in **Narmada Bai v. State of Gujarat and others**^[6]. The proposition in support of which he placed reliance upon these judgments, is almost one and the same, namely, when attention of the Court is called to an illegality at a very early stage it would not be fair to the accused not to obviate the prejudice that may have been caused thereby, by appropriate orders, at that stage but to leave him to the ultimate remedy of waiting till conclusion of the trial and of discharging the somewhat difficult burden under Section 537 of the Code of Criminal Procedure of making out that such an error has in fact occasioned a failure of justice. It was also contended that though the Code of Criminal Procedure gives to police unfettered power to investigate all cases where they suspect that a cognizable offence has been committed, in appropriate cases an aggrieved person can always seek a remedy by invoking the power of High Court under Article 226 of the Constitution under which, if the High

Court is convinced that the power of investigation has been exercised by a police officer mala fide, it can always issue a writ of Mandamus restraining the police officer from misusing his illegal powers.

In view of the contentions urged, based on the aforementioned judgments, we specifically asked learned Senior counsel appearing for the appellant to draw our attention to the averments in the affidavit filed in support of the writ petition, to demonstrate as to why the appellant is alleging that all 20-22 police officers, who are respondents in the instant appeal, are biased against him and what is the accusation made by him against those officers. He invited our attention to paragraphs 3, 4 and 5 of affidavit in support of his contention. The relevant paragraphs read thus:

“I further submit that I belongs to Schedule Caste namely Adi Dravida Community by birth and the Mandal Revenue Officer as early on 30.08.2005 certified my nativity and community certificate by putting my name as P.Madhusudhan Rao, S/o. Sri P.S. Mani, R/o. Chittoor is an Adi Dravida belonging to Schedule Caste in ‘C’ category.

I further submit that I belongs to Telugu Desam Party since last 20 years and in view of misunderstandings that arose in Chittoor District between me and other members of Telugu Desam Party belonging to forwarded community and they inturn having responsible in foisting cases against me and particularly after the general elections that was held in the year 2014 and my avowed enemies have been instrumental instigating the respondent police to involving me in forest offences relating to red sanders and they wanted to damn my political career and ruin my life.

While that being so I submit that the 7th respondent namely the Sub-Inspector of Police, Bakarapet, D.Netti Kantaiah has registered a crime in Crime No.61 of 2014 on 13.06.2014 for offences u/s. 147, 148, 353, 307 IPC r/w 149 IPC and also Section 20 (i) (c) (x) Red Sander Transit Rules, 1989 and I have been mentioned as accused No.11 describing me as Ganganapalli Madhu while infact I was not at all present at the scene of occurrence and have been implicated on the statement made by co-accused. Later the same Sub-Inspector has registered FIR.No.73 of 2014 on 11.07.2014 for offences u/s 147, 148, 307, 353 and 379 IPC r/w Section 20 (c) of A.P. Forest Act and Section 3 of Red Sander Transit Rules and have been shown as accused No.46 describing me as again as Ganganapalli Madhu of Chittoor. While infact, I was never called as Ganganapalli Madhu and have been implicated due to political rivalry

basing on the confession made by one of the accused whom I do not know and that too I was not present at the scene of occurrence.”

From a perusal of the above averments in the writ petition, we do not find any accusation as such against any particular officer to say that he is biased against the appellant. He has not made any specific allegation against any officer or any other person. In support of his contention, he did not bring any other averment in the writ petition to our notice. In this backdrop, we have perused the order passed by the learned Single Judge and we find that he has considered and appreciated the very same arguments, as advanced before us, in proper perspective and has rightly dismissed the writ petition. The relevant observations in paragraphs 11, 12 and 13 made by learned Single Judge read thus:

“Evidently, the petitioner is an accused in several crimes relating to transportation of red sanders and the said crimes, which are registered at different police stations, are under different stages of investigation. From the affidavit filed by the petitioner, it is not discernible as to any oblique motive on the part of the respondents/police officers in registering the respective crimes. Except stating that the petitioner is implicated on the confessions of the co-accused, petitioner is not able to show even prima facie that the investigation is not being conducted in a fair and transparent manner by any of the police officers. Apparently, the investigation is at the preliminary stage and petitioner is shown as accused on the basis of the investigation so far conducted in the respective crime.

The petitioner's further contention that he has been implicated though the crimes as registered against one Ganganapalli Madhu, prima facie, appears to be based upon an attempt to create a defence of showing that the person involved is somebody else whereas the petitioner is no way connected with the said crimes. From the investigation so far conducted, the respondents state that the petitioner maintains a big gang as Ganganapalli Madhu and that he is involved in various offences as listed. In fact, the respondents have produced a copy of the anticipatory bail obtained by the petitioner in the name of Ganganapalli Madhu, as referred to in the discussion above. Hence, at this stage, I do not find any material to hold that the investigation carried out in the said crimes by the respective investigating officers as mala fide so as to order transfer of investigation to some other agency.

The propositions laid down by the decisions, referred to above, are with reference to the fact situations, which came before the Court in those cases. As stated above, in the present writ petition,

I am unable to see any specific allegation or reason for disabling the respective investigating officers from continuing the investigation and entrusting it to some other agency. As no single compelling reason has been made out by the petitioner, I am unable to accept the request of the petitioner by granting the prayer sought for.”

We do not wish to add anything further and in our opinion, the writ appeal also deserves to be dismissed. Order accordingly.

Miscellaneous petitions, if any, also stand dismissed.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

Date: 25.06.2015

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[\[1\]](#) 1994 Supp (1) SCC 143

[\[2\]](#) 1970 (1) SCC 653

[\[3\]](#) (1955) SC Reports 1150

[\[4\]](#) (2011) 3 SCC 758

[\[5\]](#) (2010) 3 SCC 571

[\[6\]](#) (2011) 5 SCC 79