

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 5199 OF 2015

ORDER:

The petitioner herein was employed as a Junior Lineman with the Andhra Pradesh Central Power Distribution Company Limited. He has been placed under suspension by the Divisional Engineer of the Company at Anantapur, through the orders contained in Memo dated 29.10.2009, as he is involved in a criminal case lodged by his wife. The complaint lodged by the wife of the petitioner would disclose that the petitioner and his mother have inflicted lots of hardships on her for securing additional dowry. Therefore, the police have booked a criminal case against the petitioner for the offences under Sections 498-A and 406 of the Indian Penal Code and he was arrested on 23.10.2009 and sent for judicial custody. As of now, the charge sheet is filed in the criminal case, which is numbered as C.C.No. 42 of 2011 on the file of the Judicial Magistrate of I Class, Anantapur. It is the claim of the petitioner that the criminal case is getting dragged on, on one pretext or the other and the *de facto*-complainant and the prosecution are not showing any anxiety to complete the case. Ever since October, 2009, the petitioner is languishing without reconsidering the necessity to continue him under suspension as of now.

Learned counsel for the petitioner has placed strong reliance upon the judgment rendered by a Division Bench of this Court in ***P. Rajender v. Union of India***^[1] and would impress upon the necessity to review the order of suspension by taking into account and consideration the fact that the police have been wrongfully prosecuting the persons for the alleged offence under Section 498-A of the Indian Penal Code and the said provision is mostly put to misuse. He would therefore, urge that the respondents shall be directed to reinstate the petitioner pending the criminal case.

Involvement of a public servant in a criminal case is not

compatible with the status the public servant comes to occupy. Involvement in criminal cases and continuance in service cannot go together, but however, the increased number of criminal cases booked because of matrimonial disharmony makes us feel that the criticism that the provision contained under Section 498-A of the Indian Penal Code is put to abuse is not without substance. Therefore, it is wholly appropriate for the respondents to consider whether it would be desirable to reinstate the petitioner back to duty, inasmuch as so long as his suspension is continued, the petitioner would be paid the subsistence allowance without extracting any work from him. Thus, it will cause a strain on the precious resources of the Company on the one hand and on the other, because of the non-availability of the petitioner's services, substitute arrangements have got to be made and the substitute has got to be paid for. Thus, grave consequences are liable to be faced by the Company.

Hence, the respondents are directed to obtain the necessary information as to whether the criminal case booked against the petitioner has been repeatedly undergoing adjournment at the instance of the petitioner and if he is not at fault, consider the feasibility of reinstating him back to duty, so that till the criminal case is decided, he can be made to work and discharge his duties. Let this exercise be carried out as expeditiously as is possible, preferably within a maximum period of six weeks from the date of receipt of a copy of this order.

With this, the Writ Petition stands disposed of after hearing Sri P. Lakshma Reddy, learned Standing Counsel for the respondents. No costs.

Consequently, the miscellaneous applications, if any shall also stand disposed of.

NOOTY RAMAMOHANA RAO, J

17th March 2015

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[\[1\]](#) 2001 (5) ALD 290 (DB)