

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Appeal No.1045 of 2008

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 17644 of 2006 dated 30.3.2007. The appellant herein is the petitioner in the writ petition. He filed the writ petition questioning the action of the respondents, in withdrawing the armed gunman given for his protection pursuant to the report of the Inspector of Police, Kondapuram, Kadapa District dated 10.8.2006, as being arbitrary and illegal.

In the order under appeal dated 30.3.2007, the learned Single Judge noted the contents of the counter-affidavit filed by the Superintendent of Police, Kadapa wherein it is stated that the Sub-Divisional Police Officer, Jammalamadugu had conducted an enquiry for providing a gunman to the petitioner, and had filed his report; the report showed that the petitioner figured as an accused in Crime No. 28 of 1999 for the offences under Section 147, 148, 324 read with 149 IPC, Crime No. 73 of 2002 under Sections 143, 452, 323, 353 and 506 IPC of Simphadripuram Police Station, and Crime No. 66 of 1999 under Section 136(1)(C) of the Representation of Peoples Act, 1962 of Thondur Police Station; out of these three cases, Crime No. 73 of 2002 ended in conviction and the petitioner was sentenced to undergo simple imprisonment for two years; the petitioner is away from his native village for a long time, and is moving in Bangalore and Hyderabad on his contract works; his stay in his native village is too little to expect any threat to his life either by the villagers or his alleged opponents; at present there is no faction existing in Himakunta Village to which the petitioner belongs; and, as the petitioner had himself shifted allegiance from one party to another, there was no opposition at all in the village;

and, in the present situation, there was no need for providing any gunman to him.

The question whether there is a threat to the life of the petitioner, and whether he should be provided a gunman for protection of his life, are matters which are required to be examined by the 1st respondent. The 1st respondent called for a report from the Sub-Divisional Police Officer, Jammalagudu and recorded his satisfaction that there was no life threat to the petitioner. The writ petition was filed in the year 2006, and nearly eleven years have since elapsed and, during this eleven year period, the petitioner has not had the benefit of a gunman.

Sri Basith Ali Yavar, learned counsel for the appellant, would submit that the appellant-writ petitioner is hale and healthy. If that be so, and as he did not have the benefit of a gunman for the past eleven years, it does not stand to reason that he should now be provided by a gunman, more so by this Court in the exercise of its jurisdiction under Article 226 of the Constitution of India. The jurisdiction exercised in an intra-Court appeal, under Clause 15 of the Letters Patent, is limited, and save patent illegality in the order under appeal, no interference is called for. We find no such infirmity in the order under appeal necessitating our interference.

The writ appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

7th February, 2017

pnb

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**



Writ Appeal No.1045 of 2008

Date: 7.2.2017

pnb

