

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. JUSTICE M. GANGA RAO

Writ Appeal No.967 of 2016

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

This appeal, under Clause 15 of the Letters Patent, is filed against the interim order passed by the learned Single Judge in W.P.M.P. No. 5904 of 2016 in W.P. No.4611 of 2016 dated 12.2.2016. Respondent Nos. 1 to 3 herein filed the Writ Petition seeking a direction to the respondents therein not to arrest the petitioners in Crime No. 14 of 2016. By the interlocutory order under appeal, the learned Single Judge permitted the police authorities to continue with the investigation of the crime, but directed them not to arrest the petitioners pending completion of investigation, and till the filing of the final report before the competent Criminal Court. The Petitioners (Respondent Nos. 1 to 3) herein were directed to cooperate with the investigation.

Sri Vedula Venkataramana, learned Senior Counsel appearing on behalf of respondents 1 to 3, would submit, not without justification, that, in the light of the law declared by the Supreme Court in **Ram Kishan Fauji vs. State of Haryana & Others**¹, an appeal, under Clause 15 of the Letters Patent, does not lie against exercise of criminal jurisdiction by the learned Single Judge.

In **Ram Kishan Fauji**¹, the Supreme Court held that a proceeding, seeking to avoid the consequences of a criminal proceeding initiated under the Code of Criminal Procedure, would continue to remain a "Criminal proceeding" covered by the bracketed portion of Clause 15 of the Letters Patent; Clause 15 of the Letters Patent provides for an appeal from a judgment not being a judgment, among others, in the exercise of criminal jurisdiction of one judge of the said High Court; and an appeal under Clause 15 of the Letters Patent is, therefore, not maintainable.

¹ 2017 SCC Online 259

Liberty was, however, granted to the respondents therein to assail the order of the learned Single Judge in accordance with law.

In the light of the law declared by the Supreme Court, in **Ram Kishan Fauji**¹, the appeal preferred against the interlocutory order passed by the learned Single Judge exercising criminal jurisdiction must be dismissed on the short ground that such an appeal cannot be maintained under Clause 15 of the Letters Patent. As the Supreme Court, in **Ram Kishan Fauji**¹, granted liberty, we also grant the appellant herein liberty to assail the order of the learned Single Judge in accordance with law.

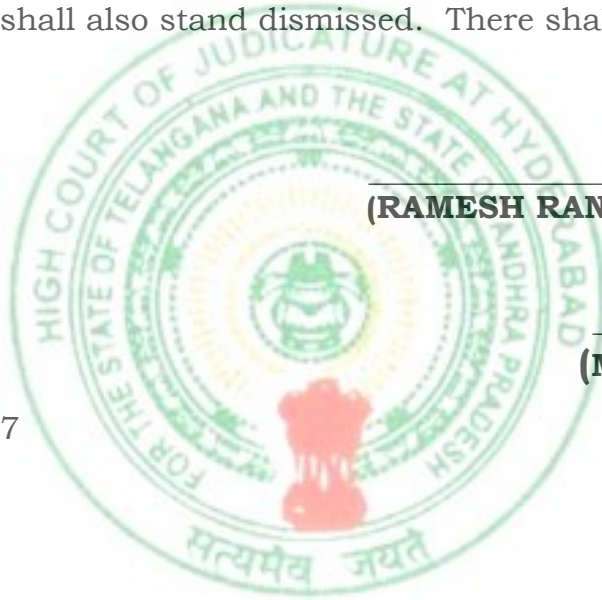
The Writ Appeal is, however, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(**RAMESH RANGANATHAN, ACJ**)

(**M. GANGA RAO, J**)

6th October, 2017

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