

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT APPEAL Nos.216 and 153 of 2018

Date: 13.03.2018

WRIT APPEAL No.216 of 2018

Between:

State of A.P., Rep. by its Principal Secretary,
Law Department, A.P. Secretariat Buildings
at Velagapudi, Amaravathi, Guntur District,
and two others.

.. Appellants

and

Smt. Pangi Sridevi, W/o. Suryam,
R/o. Vakapalli Village, G. Madugula Mandal,
Visakhapatnam District, and others

.. Respondents

Counsel for the appellants: Government Pleader for Home (A.P.)

Counsel for the respondents: Ms. Vasudha Nagaraj

WRIT APPEAL No.153 of 2018

Between:

Adabala Ravi Kumar, S/o. Satyanarayana,
Kancharlapalem, Visakhapatnam, and 12 others.

.. Appellants

and

State of A.P., Rep. by its Principal Secretary,
Law Department, A.P. Secretariat Buildings
at Velagapudi, Amaravathi, Guntur District,
and two others.

.. Respondents

Counsel for the appellants: Sri T. Pradyumna Kumar Reddy

Counsel for the respondents 1 to 3: Government Pleader for Home (A.P.)

Counsel for respondents 4 to 12 : Ms. Vasudha Nagaraj

The Court made the following:

COMMON JUDGMENT: (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

These two writ appeals by the State and Police personnel, who figured as the accused in S.C.No.96 of 2017 on the file of the XI Additional District and Sessions Court-cum-Special Court under the SC & ST (Prevention of Atrocities) Act, 1989, Visakhapatnam, arise out of order, dated 04.01.2018, in W.P.No.42142 of 2017.

The subject matter of the dispute relates to appointment of Special Public Prosecutor. The aforementioned writ petition, filed by respondents 4 to 12, the alleged victims of rape at the hands of the appellants in Writ Appeal No.153 of 2018, seeking appointment of Special Public Prosecutor of their choice, was allowed by the learned Single Judge by the order under appeals. By the said order, the learned Single Judge has directed the second respondent in the writ petition to engage the services of Dr. Palla Trinadha Rao, Advocate, for conducting trial in the aforementioned Sessions Case. Feeling aggrieved by this order, the State as well as the accused police officers have filed these Writ Appeals.

During the hearing of these cases, on 22.02.2018, a suggestion has fallen from the Bench that if the learned counsel representing all the parties agree, the Court may direct the Registrar General of this Court, to identify three eminent criminal lawyers of considerable standing from each of the two States of Telangana and Andhra Pradesh and place their names before the Court, so that the victims may choose

one among them as the Special Public Prosecutor, whom Dr.Palla Trinadha Rao, will assist on behalf of the victims. The learned Government Pleader for Home (A.P.) and Mr.T.Pradyumna Kumar Reddy, learned counsel appearing for the appellants in the respective appeals, and Ms. Vasudha Nagaraj, learned counsel appearing for the victims, agreed for this suggestion. Accordingly, an order was passed directing the Registrar General to identify three eminent criminal lawyers of standing of not less than 20 years at the Bar, with impeccable track record and integrity, from each of the two States of Telangana and Andhra Pradesh and place the list before this Court in a sealed cover, by the next date of hearing.

The Registrar General after identifying the names of seven Advocates – four from the State of Andhra Pradesh and three from the State of Telangana, submitted the list in a sealed cover.

During the hearing, on 08.03.2018, this Court has made the list available for perusal to the learned counsel appearing for all the parties including the learned Government Pleader for Home (A.P.). The learned Government Pleader for Home (A.P.), the learned counsel for the accused and also Ms.Vasudha Nagaraj, learned counsel for the victims, have expressed their absolute satisfaction at the names suggested by the Registrar General. At the request of Ms. Vasudha Nagaraj, learned counsel for the victims, the

case was adjourned by a day to enable the victims to select one of the Advocates to be appointed as the Special Public Prosecutor.

On 09.03.2018, Ms. Vasudha Nagaraj, learned counsel, stated that the victims have chosen Sri Sunkara Rajendra Prasad, Advocate, Vijayawada, one of the seven Advocates identified by the Registrar General, for appointment as the Special Public Prosecutor. The learned Government Pleader for Home (A.P.) stated that the State has no objection for such appointment. Sri T. Nitender Singh, learned counsel representing Sri T. Pradyumna Kumar Reddy, learned counsel for the appellants-accused, also submitted that his clients do not have any objection for appointment of the said person as the Special Public Prosecutor. This Court, thereupon, directed the Registrar General to ascertain the willingness of Sri Sunkara Rajendra Prasad, Advocate, Vijayawada, for being appointed as the Special Public Prosecutor and also indicate his professional fee, through telephone and place a report before this Court.

As per the said direction, the Registrar General has submitted his report in a sealed cover wherein he has *inter alia* stated that Sri Sunkara Rajendra Prasad, Advocate, was contacted over phone on 11.03.2018 and on being apprised of the order of this Court, he has accepted the proposal for his appointment as Special Public Prosecutor and given his willingness for the same. As regards the question of his fee,

the learned Advocate generously stated that he is leaving it to this Court for fixing the same and that he will accept whatever fee this Court fixes. It is further stated in the report that the said Advocate has stated that he may be provided with accommodation for his stay at Visakhapatnam where the trial of the case is to be conducted, and paid travelling expenses to and from Vijayawada to Visakhapatnam.

Learned Government Pleader for Home (A.P.) has placed before us G.O.Rt.No.174, Law (L.3) Department, dated 31.01.2014, whereunder honorarium to the Government Pleaders/Special Government Pleaders/Additional Government Pleaders, Assistant Government Pleaders, Public Prosecutors, Additional Public Prosecutors and Special Public Prosecutors is enhanced. In respect of the Special Public Prosecutor appointed in individual cases, the honorarium is enhanced from Rs.500/- to Rs.1,000/- per appearance per day.

This is a case involving 70 witnesses and voluminous documents. The accused are police personnel, 13 in number, and one of the accused is also of the Rank of Superintendent of Police. We can imagine the intensity and magnitude of the case and the seriousness with which the trial in the case has to be conducted. Therefore, we cannot treat this case like any other ordinary case, in which Special Public Prosecutors are appointed.

Considering the stature and experience of the learned Advocate to be appointed as the Special Government Pleader and the nature of the case, we are of the opinion that a fee of Rs.4,000/- per appearance per day would be reasonable and appropriate. In addition to this daily fee, the State must bear the travel expenditure required for travelling by 2-Tier AC Train or by AC Bus, at the choice of the advocate whenever the case is posted. The State must also provide a decent accommodation in any Government Guest House, such as, Circuit House, Integrated Tribal Development Agency Guest House etc., where reasonable facilities are available for his comfortable stay. At the request of the learned counsel for the victims, the Special Public Prosecutor is permitted to utilize the services of one of the lawyers of his choice to assist him who shall not however have any right of audience and the right to conduct trial on his own.

Appellant No.1 in W.A.No.216 of 2018 is directed to issue an order appointing Sri Sunkara Rajendra Prasad, as Special Public Prosecutor for conducting trial in S.C.No.96 of 2017 on the file of the XI Additional District and Sessions Court-cum-Special Court under the SC & ST (Prevention of Atrocities) Act, 1989, Visakhapatnam, by incorporating the above mentioned terms.

The order of the learned Single Judge is accordingly modified and the Writ Appeals are allowed to the extent indicated above.

As a sequel to disposal of the Writ Appeals, I.A.No.1 of 2018 in W.A.No.216 of 2018 and I.A.No.3 of 2018 in W.A.No.153 of 2018 stand disposed of as infructuous.

(C.V.NAGARJUNA REDDY, J)

Date: 13.03.2018

(G. SHYAM PRASAD, J)

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