

High Court for the State of Telangana

HONOURABLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

HONOURABLE SRI JUSTICE T. AMARNATH GOUD

WRIT PETITION No.3676 OF 2019

Date: 21-02-2019

Between:

V. Subba Rao

.. Petitioner

AND

The State of Telangana
represented by its Chief Secretary,
Secretariat Buildings, Hyderabad & 4 others

.. Respondents

Counsel for the petitioner: Mr. Bhanothu Hussain

Counsel for the respondents: G.P. for Home (TG)
G.P. for General Administration (TG)

The Court made the following:

ORDER: (Per Hon'ble Sri Justice Raghvendra Singh Chauhan)

Registry has pointed out the following defect in the cause title:-

That respondent No.4 could not have been arrayed as respondent party. For, he is the Judicial Officer, who has sentenced the petitioner's nephew, Mr. Satya Prasad V.N., to four days simple imprisonment, could not have been arrayed in his personal capacity as respondent No.4.

The learned counsel for the petitioner submits that he does not wish to press this writ petition against respondent No.4.

The learned counsel for the petitioner has raised the following contentions before this Court:-

Firstly, on 15.02.2019 the petitioner's nephew, Mr. Satya Prasad V.N., was riding on his car. He was intercepted by the police as he was talking on his mobile phone. He was instructed by the police to report to the police station on 19.02.2019 as they had booked a case against him under Section 184 of the Motor Vehicles Act, 1988 (for short 'Act'). Since the offence under Section 184 of the Act is compoundable, the police also told him to be at the concerned Court, namely IV Special Metropolitan Magistrate, Cyberabad, Kukatpally. According to the learned counsel for the petitioner, the petitioner's nephew appeared before the Court concerned on 19.02.2019.

But instead of merely imposing a fine, the petitioner's nephew has been sentenced to four days imprisonment. According to the learned counsel, since the petitioner's nephew had pleaded guilty, a lenient view should have been taken by the learned Court. Therefore, instead of sentencing him to imprisonment for four days, a reasonable fine could have been imposed on him. Hence, the order deserves to be set aside.

On the other hand, the learned Assistant Government Pleader (Home) pleaded that it is well within the power of the Court concerned to either sentence the accused, or to impose a fine. Since the petitioner's nephew had pleaded guilty, the learned Court was justified in directing the petitioner's nephew to undergo simple imprisonment for four days. Therefore, the learned Assistant Government Pleader has supported the impugned order.

Section 184 of the Act is as under:

“Driving dangerously.—Whoever drives a motor vehicle at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition and use of the place where the vehicle is driven and the amount of traffic which actually is at the time or which might reasonably be expected to be in the place, shall be punishable for the first offence with imprisonment for a term which may extend to six months or with fine

which may extend to one thousand rupees, and for any second or subsequent offence if committed within three years of the commission of a previous similar offence with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both”.

While the provision empowers the Court to sentence a person to a maximum of six months, it also permits the Court to impose a fine upon the alleged offender. Since the petitioner's nephew pleaded guilty, a lenient view should have been taken by the learned Magistrate. After all, justice has to be tempered with mercy. Therefore, the learned Court is unjustified in sending the petitioner's nephew to jail by recording a conviction and sentencing him to four days imprisonment.

For the aforesaid reasons, the writ petition is hereby allowed. The impugned order dated 19.02.2019 in STC No.6692 of 2019 in Consecutive No.2321 of 2018 passed by the learned IV Special Metropolitan Magistrate, Cyberabad, Kukatpally, is modified to the extent that Mr. Satya Prasad V.N. is directed to pay a fine of Rs.500/- (Rupees five hundred only) before the Court concerned. He shall be set at liberty forthwith, if not wanted in any other case. There shall be no order as to costs.

Miscellaneous Petitions, if any pending, in the writ petition stand closed.

RAGHVENDRA SINGH CHAUHAN, J

T. AMARNATH GOUD, J

February 21, 2019.

NOTE:

Advance Order already sent.

PV

