

HIGH COURT FOR THE STATE OF TELANGANA

**THE HONOURABLE THE ACTING CHIEF JUSTICE
RAGHVENDRA SINGH CHAUHAN**

AND

THE HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

W.A.No.305 of 2019

Date: 10.04.2019

Between:

Edla Venkatamma
and another

...Appellants

and

The State of Telangana,
Rep. by the Principal Secretary,
Home Department,
Hyderabad

...Respondents

Counsel for the appellants: Mr. K.Gopal for Mrs.P.V.Nagamani

Counsel for the respondent Nos.1 to 4, 7,
8, 11 to 14

: Mr.A.Manoj Kumar
Assistant Government Pleader
(Home)

The Court made the following:

JUDGMENT: *(Per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)*

The appellants are aggrieved by the order dated 02.04.2019 passed by the learned Single Judge in W.P.No.4504 of 2019, whereby the learned Single Judge has issued a notice before admission to the respondents, but has not granted any interim relief to the appellants.

Mr.K.Gopal, the learned counsel for the appellants, submits that the appellant No.2 happens to be a person, who is supporting the opposition party. Therefore, the respondents bear a grudge against him. In order to prevent the appellant No.2 from supporting the opposition party in the State, a series of FIRs have been registered against the appellant No.2 at the behest of respondents. Moreover, the registration of several FIRs against the appellant No.2 is likely to be used by the respondents in order to preventively detain him under the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders, Land Grabbers, Spurious Seed Offenders, Insecticide Offenders, Fertiliser Offenders, Food Adulteration Offenders, Fake Document Offenders, Scheduled Commodities Offenders, Forest Offenders, Gaming Offenders, Sexual Offenders, Explosive Substances Offenders, Arms Offenders, Cyber Crime Offenders and White Collar or Financial Offenders Act, 1986 ('the Act', for short). Therefore, the appellants had prayed before the learned Single Judge that the action of the respondents in involving the appellant No.2 in a series of criminal cases, and the contemplated proceeding under the Act should be declared as arbitrary, unfair and unjust. Secondly, any step taken

by the respondents for initiating proceeding under the Act too should be prevented by the learned Single Judge. Thirdly, proceeding, including arrest of the appellant No.2, in pursuance of Cr.Nos.4, 19, 25 and 26 of 2019, registered at P.S. Manthani, Peddapalli District, should be stayed by the learned Single Judge. Lastly, the learned Single Judge should direct an independent agency to conduct an enquiry against the respondent Nos.4, 8, 9, 11 to 14. The main prayer was also prayed for as an interim relief. The learned counsel submits that instead of just issuing notice to the respondents, the learned Single Judge, in fact, should have granted the stay as prayed for by the appellants. The learned counsel further submits that recently the appellant No.2 has been arrested by the police. Therefore, it is obvious that the respondents are keen to prevent the appellant No.2 from supporting the opposition party during the election period.

Heard the learned counsel and perused the impugned order.

It is, indeed, trite to state that grant of a temporary relief is at the discretion of the concerned Court. Therefore, ordinarily, the appellate Court would not, and should not, interfere with the discretion of the lower Court, in case it declines to grant the interim relief. It is also trite to state that if the grant of interim relief would tantamount to the grant of the main relief, in such a scenario, the interim relief should ordinarily be not granted.

Moreover, in order for interim relief to be granted in favour of appellants, the appellants are required to clearly establish a *prima facie* case, a balance of convenience, and the factum that an

irrevocable loss would be caused if the interim relief were not granted in their favour.

In the present case, the appellants would like the recording of series of FIRs against them to be forestalled. However, the lodging of a FIR, the registration of a FIR cannot be prevented by an order passed by the Court. For, generally a Court of law is not permitted to interfere in the lodging of a FIR. Although the Court may stay an investigation, concrete, cogent and convincing reasons must be established before a Court interferes with investigation of a case.

Furthermore, the appellants would want this Court to prevent the respondents from passing a preventive detention order against the appellant No.2. Needless to say, the passing of a preventive detention order is based on the circumstances of the case, and on the subjective satisfaction of the detaining authority. Therefore, it would be too premature for this Court to interfere and to pre-empt the passing of a preventive detention order against the appellant No.2.

Moreover, the appellants would like the Court to prevent the arrest of the appellant No.2 in certain crime numbers mentioned hereinabove. However, the writ jurisdiction cannot be invoked as a subterfuge for the grant of an anticipatory bail. In case the appellant No.2 is under a *bona fide* impression that he is likely to be arrested in relation to FIR, he has an efficacious alternative remedy available to him under Section 438 Cr.P.C. Therefore, the appellants do not have a *prima facie* case in their favour.

Since the investigating agencies, and the agencies involved in maintaining the law and order must be given some freedom at the joints, a temporary injunction order may create obstacles for the law enforcement agencies. Therefore, even the balance of convenience is not in favour of the appellants.

Even if the appellant No.2 were to be arrested illegally, he would be entitled to receive compensation. Hence, even an irreparable loss is not caused to the appellant No.2.

Since none of the ingredients for grant of a temporary injunction exist in the present case, the learned Single Judge was certainly justified in declining to grant a temporary relief in favour of the appellants.

For the reasons stated above, this Court does not find any illegality or perversity in the impugned order of the learned Single Judge. This writ appeal is devoid of merit; it is dismissed accordingly. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, ACJ)

(A.RAJASHEKER REDDY, J)

10th April, 2019

Lrkm