

(2012) 08 AP CK 0110

In the Andhra Pradesh High Court

Case No : Criminal P. No's. 6366, 6377 and 6396 of 2012

Dr. M.V. Ramana Rao

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 13-08-2012

Acts Referred:

Constitution of India, 1950 — Article 20
Criminal Procedure Code, 1973 (CrPC) — Section 199(2)
Information Technology Act, 2000 — Section 43(g), 66, 72, 84(B), 84(C)
Official Secrets Act, 1923 — Section 5
Penal Code, 1860 (IPC) — Section 120B, 166, 417, 420, 499
Telegraph Act, 1885 — Section 24, 25, 29

Citation : (2012) 3 ALT(Cri) 83

Hon'ble Judges : Samudrala Govindarajulu, J

Bench : Single Bench

Advocate : B. Adinarayana Rao, in Criminal P. No. 6366 of 2012 Mr. C. Padmanabha Reddy, for Mr. Cheturu Sreenivas Criminal P. No. 6377 of 2012 and Smt. D. Sangeetha Reddy Criminal P. No. 6396 of 2012, for the Appellant;

Judgement

Samudrala Govindarajulu, J.—The petitioners in Criminal Petition Nos. 6366 and 6396 of 2012 are A2 and A3 in Cr. No. 128 of 2012 the case booked by the police on report given by V.V. Lakshminarayana, Joint Director, CBI, Hyderabad. The petitioner in Criminal Petition No. 6377 of 2012 is A2 in Cr. No. 23 of 2012 the case registered by the police on report given by one Chandrabala. A2 in Crime No. 128 of 2012 is a business man, A3 in Crime No. 128 of 2012 is working as Deputy Director General, Telecom and Enforcement and Resource Maintaining Cell, Maharashtra State at Nagpur. A2 in Crime No. 23 of 2012 was working as Inspector of Police, Nacharam Police Station, in Cyberabad. Crime No. 128 of 2012 relates to offences punishable under Sections 120B, 420, 166, 509, 499, 500 IPC, Sections 24, 25 and 29 of Indian Telegraph Act and Sections 66/43(g), 72, 84(B) and 84(C) of Information Technology Act 2000. Crime No. 23 of 2012 relates to the offences punishable under Sections 120-B, 420, 505(2), 509 IPC, Sections 66, 72, 84(B) and 84(C) of Information Technology Act, Section 24 of

the Indian Telegraph Act and Section 5 of Official Secrets Act, 1923. Crime No. 128 of 2012 relates to collection of call data pertaining to cell phone of V.V. Lakshminarayana. The said cell phone was having BSNL connectivity. Crime No. 23 of 2012 relates to collection of call data of Chandrabala relating to her cell phone with AIRTEL connectivity. In Crime No. 128 of 2012 it is alleged that A1 contacted his friend A2 who had contacts with telecom officials and requested him to obtain call data relating to cell phones of V.V. Lakshminarayana and that A2 contacted A3 who earlier worked in Vijayawada and Hyderabad and who is known to A2 for the said purpose and that on the request of A2, A3 gave SMS from his cell to Director, TERM, DOT, Vijayawada to give call data pertaining to one cell phone of the de facto complainant contrary to the procedures and that on receipt of message from A3, Director, TERM, DOT, Vijayawada sent the same to SDE (Technical) BSNL, Hyderabad and that on the same day, SDE (Technical) BSNL, Hyderabad forwarded call data by E-Mail to Director, TERM, DOT, Vijayawada, who forwarded the said call data through E-Mail to A3 on 22.12.2011. It is further alleged that A3 sent the said call data through Mail to A2 and that as per their plan, A2 forwarded the said data to A1 in a memory stick/pen drive and that the said call data which was obtained fraudulently and dishonestly with ulterior motive was filed before the High Court of Andhra Pradesh in Writ Petition No. 1946 of 2012 and in W.P.No. 31492 of 2011 by A1. So, ultimately it was A1 who filed the call data in public Court. The lower Court granted anticipatory bail to A1 in this crime while dismissing anticipatory bail applications of A2 and A3. In Crime No. 23 of 2012, it is alleged that A2 who is the Inspector of Police, Nacharam Police Station obtained password and e-mail address of Deputy Commissioner of Police, Alwal through camp clerk of DCP and that A2 was sending requisitions to various service providers directly from the police station through e-Mail ID of DCP, Alwal/Malkajgiri. It is alleged that call data of Chandrabala obtained in that manner by A2 was handed over to A1 who is senior journalist working in SAKSHI Daily Newspaper and he got the same published in SAKSHI Daily Newspaper as well as in SAKSHI TV Channel. This Court by order dated 31.07.2012 in Criminal Petition No. 5627 of 2012 granted anticipatory bail to A1 in this Crime.

2. It is contended by senior counsel and other counsel appearing for the petitioners that all the offences alleged against the petitioners are bailable in nature except the offence u/s 420 IPC. It is further contended that Section 420 IPC has no application to facts of these cases as there was no dishonest intention on the part of the accused and as no valuable property was parted with by the de facto complainants in these cases. If the said submissions are going to be accepted on Section 420 IPC, then at best the offence will be watered down to Section 417 IPC, which becomes a non-cognizable and bailable offence.

3. It is contended by the Public Prosecutor that the de facto complainant V.V. Lakshminarayana as Joint Director, CBI, Hyderabad, has been making investigation into offences of high magnitude and that publication of call data relating to him was resorted to with an intention to demoralize the said officer

who has been doing strenuous job and that the activity of publication of call data relating to the de facto complainants in these cases would amount to invasion into right of privacy of the de facto complainants which is a valuable right under Article 20 of the Constitution of India. I do not think that dedicated officers will be demoralized by these tactics of publishing call datas in newspapers and news, channels. It may be a fact that there is certain amount of infringement into right of privacy of the de facto complainants. For infringement of right of privacy of an individual, there are remedies under the Law of Torts and also Law of Crimes by way of filing defamation cases against the persons concerned in case ingredients of the penal sections relating to defamation are made out. Since V.V. Lakshminarayana happened to be a public servant, either himself can file a complaint in criminal court for defamation against the persons concerned or request the State to sponsor the said complaint on his behalf u/s 199(2) Cr.P.C. Prima facie, these may not be cases which require the State Machinery and particularly a premier investigation agency of the State like Criminal Investigating Department (CID) which is popularly called as Crime Branch of the State to take up the matters as if grave crimes are involved in this. This Court is of the continued opinion that these are not cases which are alarming in nature and which are grave.

4. It is pointed out by the senior counsel and the counsel for the petitioners that A2 and A3 in Crime No. 128 of 2012 have cooperated with the investigating agency in tracing out route of receiving the call data and also in handing over all the material like hard-discs, laptop, memory stick/pendrive and other electronic equipment and that A3 also gave a detailed note of the events relating to collection of call data in these cases.

5. Entire investigation of these cases is almost completed, except receiving FSL report relating to material electronic objects sent to the laboratory. The Investigating Officers have collected voluminous oral evidence as well as documents apart from material objects in these cases. There is no allegation that A2 and A3 in Crime No. 128B of 2012 and A2 in Crime No. 23 of 2012 have suppressed any information or material and have secreted any such things. Having regard to all the circumstances and facts of these cases, these are fit cases for granting anticipatory bail for all the petitioners herein. In the result, the petitioners in these three petitions, who are A2 and A3 in Crime No. 128 of 2012 and A2 in Crime No. 23 of 2012 are directed to surrender before VI Additional Chief Metropolitan Magistrate, Hyderabad, on or before 13.09.2012, in which event, they shall be released on bail on furnishing personal bonds for Rs. 10,000/- (Rupees ten thousand only) each together with two sureties each for the like sum each to the satisfaction of the same Magistrate.