

(1997) 01 AP CK 0032

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 107 of 1997

G. Yadaiah and Others

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 29-01-1997

Acts Referred:

Constitution of India, 1950 — Article 129, 215

Citation : (1997) 1 ALD(Cri) 328

Hon'ble Judges : S. Parvatha Rao, J

Bench : Single Bench

Advocate : A.T.M. Rangaramanujam, for the Appellant; Public Prosecutor, for the Respondent

Judgement

1. I am not inclined to allow this petition for release of the petitioners on bail.
2. The learned Additional Sessions Judge at Mahabubnagar by his order dated 30-12-1996 dismissed a similar petition for bail in CrI. M.P. No. 1407 of 1997 observing that "the petitioners were found in possession of 700 grams of Diazepam and also Chloral Hydrate". I am of the same view. The petition is, therefore, dismissed. However, in view of the letter of the Superintendent, District Jail, Mahabubnagar dated 24-1-1997 addressed to the learned Additional Sessions Judge at Mahabubnagar, I make it clear that it will be open to the 1st petitioner to move for bail afresh before the Sessions Court concerned.
3. Before closing I have to deal with certain unfortunate and unpalatable aspects brought out in the hearing of this matter.
4. When this petition came before me on 17-1-1997 it was noticed that a typed copy of remand report was filed without the matter "written on the overleaf giving the particulars of the seized property", and I observed as follows :

"It is most unfortunate that the learned counsel has not placed before this Court, the matter written on the "overleaf" of the remand report giving the details of the seized property. It is only when the Court required of the counsel to verify,

that the learned counsel has stated, after going through the papers in his hand, that the list of seized property is mentioned on the second page of the remand report. The learned counsel states that he will be filing tomorrow, a true copy of it along with a xerox copy of the full remand report including every detail therein. Office to receive the same and put up if filed by 18-1-1997.

Post the matter on 20-1-1997".

5. By the time the matter came up again on 20-1-1997, the learned counsel for the petitioners, Mr. A. T. M. Rangaramanujam, filed additional material papers containing typed copies of (i) full remand report which contained seized property list, and (ii) panchnama, and also xerox copies of the remand report and the panchnama. It was then brought to my notice by the learned Additional Public Prosecutor that the copy of the "panchnama" filed along with the petition did not tally with the copy of the panchnama filed as additional material papers on 18-1-1997. When asked to explain, the learned counsel stated that the copy of the panchnama filed along with the petition was as per the one given to him by the petitioners. Thereafter, the following order was made by me on 20-1-1997 :

"The learned counsel for the petitioners has filed a set of material papers pursuant to the direction dated 17-1-1997 of this Court in this Criminal Petition. In the course of the arguments, it has been brought to my notice that the typed copy of the panchnama made before Sri. Y. Ramachandraiah, (Preventive Excise Superintendent, S.T.F.) on 22-12-1996 filed along with the Criminal Petition, does not tally with the typed copy of the panchnama conducted by the same person on the same day as filed in the material papers on 18-1-1997. On examination, it is noticed that what is filed in the Criminal Petition is a truncated form and an abridged version of the copy of the panchnama dated 22-12-1996.

The learned Public Prosecutor states that he will require the authority concerned to produce the entire records with a specific reference to the panchnama to ascertain whether there are two panchnama, copies of which were furnished to the accused. The learned counsel for the petitioners states that what was filed along with the petition was what was furnished to him by the petitioners. Then the petitioners will have to explain how they have furnished a copy of the panchnama as filed along with the petition. The learned counsel for the petitioners states that he would ascertain from them and if necessary produce the petitioners before the Court to explain how they came to furnish such a copy of the panchnama if that was not really the panchnama.

Post on 27-1-1997".

6. When the matter came again on 27-1-1997, the learned counsel for the petitioners admitted that it was his mistake that led to the filing of the abridged and truncated version of the panchnama along with the petition on 31-12-1996. The matter was adjourned to this day for initiating action for contempt.

7. The learned counsel today owned his responsibility for what had happened and

apologised unconditionally for what he had done and wanted to be excused.

8. I have no doubt that filing an abridged and truncated version of the panchnama omitting certain material parts and filing only a part of the remand report without the very material particulars on the revers was with a view to snatch unmerited orders from this Court. The said conduct on the part of the learned counsel interferes with the administration of justice and amounts to contempt of Court committed in the presence of and hearing in the Court. It is, therefore, an *ex facie* contempt which can be proceeded with suo motu and forthwith under Article 215 of the Constitution of India as also u/s 14 of the Contempt of Courts Act, 1971, (for short "the Act").

9. In the case of *In re: Vinay Chandra Mishra* (the alleged contemner), , the Supreme Court dealt with the nature of *in facie curiae* contempt and the justification for adopting summary procedure and punishing the offender on the spot. The Supreme Court has observed that Section 14 of the Act deals with the procedure when the action is taken for the contempt in the face of the Supreme Court and the High Court, and that criminal contempt of Court "is an offence *sui generis* and hence for such offence, the procedure adopted both under the common law and the statute law even in this country has always been summary". The Supreme Court further observed as follows :

"The threat of immediate punishment is the most effective deterrent against misconduct. The Judge has to remain in full control of the hearing of the case and he must be able to take steps to restore order as early and quickly as possible. The time factor is crucial. Dragging out the contempt proceedings means a lengthy interruption to the main proceedings which paralyses the Court for a time and indirectly impedes the speed and efficiency with which justice is administered".

10. Section 2(c) of the Act defines "criminal contempt". It means, *inter alia*, the doing of any act whatsoever which prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner. In *Ram Autar Shukla Vs. Arvind Shukla*, the Supreme Court, speaking through K. Ramaswamy, J., referred to various classic definitions of contempt of Court and criminal contempt; C.J. Miller's *Contempt of Court* a criminal contempt may be committed by "indulging in conduct which creates a serious risk or prejudice to the fair trial of particular criminal or civil proceedings, whether through an effect upon the parties, the witness, or the tribunal itself"; "The Law of Contempt by Anthony Arlidge and David Eady - "any conduct calculated to interfere with the administration of justice was a contempt". Calculated means no more than tending to; The House of Lords in *Attorney General v. Times Newspaper* 1974 AC 273 "any act which raised a real albeit small likelihood of interference with the administration of justice amounts to contempt of Court". The Supreme Court held as follows :

"Due course of justice means not only any particular proceedings but broad stream of administration of justice. Therefore, due course of justice used in Section 2(c) or Section 13 of the Act are of wide import and are not limited to any particular judicial proceeding. Much more wider when this Court exercises suo motu power under Article 129 of the Constitution. Due process of law is blinkered by acts or conduct of the parties to the litigation or witnesses which generate tendency to impede or undermine the free flow of the unsullied stream of justice by blatantly resorting, with impunity, to fabricate Court proceedings to thwart fair adjudication of dispute and its resultant end. If the act complained of substantially interferes with or tends to interfere with the broad stream of administration of justice, it would be punishable under the Act. If the act complained of undermines the prestige of the Court or causes hindrance in the discharge of due course of justice or tends to obstruct the course of justice or interfere with due course of justice, it is sufficient that the conduct complained of, constitutes contempt of Court and liable to be dealt with in accordance with the Act. It has become increasingly a tendency on the part of the parties either to produce fabricated evidence as a part of the pleadings or record or to fabricate the Court record itself for retarding or obstructing the course of justice or judicial proceedings to gain unfair advantage in the judicial process. This tendency to obstruct the due course of justice or tendency to undermine the dignity of the Court needs to be severely dealt with to deter the persons having similar proclivity to resort to such acts or conduct. In an appropriate case, the mens rea may not be clear or may be obscure but if the act or conduct tends to undermine the dignity of the Court or prejudice the party or impedes or hinders the due course of judicial proceedings or administration of justice, it would amount to contempt of the Court".

In Chandra Shashi Vs. Anil Kumar Verma, , B. L. Hansaria, J. speaking for the Supreme court, observed as follows :

"Anyone who takes recourse to fraud, deflects the course of judicial proceedings; or if anything is done with oblique motive, the same interferes with the administration of justice. Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice.

xxx xxx xxx To enable the Courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehoods have to be appropriately dealt with, without which it would not be possible for any Court to administer justice in the true sense and to the satisfaction of those who approach it in the hope that truth would ultimately prevail

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The aforesaid thoughts receive due support from the definition of criminal

contempt as given in Section 2(c) of the Act, according to which an act would amount to be so if, inter alia, the same interferes or tends to interfere, or obstructs or tends to obstruct the administration of justice. The word "interfere", means in the context of the subject, any action which checks or hampers the functioning or hinders or tends to prevent the performance of duty obstruction of justice is to interpose obstacles or impediments, or to hinder, impede or in any manner interrupt or prevent the administration of justice."

The learned Judge held that "if a forged and fabricated document is filed, the same may amount to interference with the administration of justice". In *Dhananjay Sharma Vs. State of Haryana and Others*, , *Dr. A. S. Anand, J.* held as follows (at page 1806 of AIR) :

"Thus, any conduct which has the tendency to interfere with the administration of justice or the due course of judicial proceedings amounts to the commission of criminal contempt. The swearing of false affidavits in judicial proceedings not only has the tendency of causing obstruction in the due course of judicial proceedings but has also the tendency to impede, obstruct and interfere with the administration of justice. The filing of false affidavits in judicial proceedings in any Court of law exposes the intention of the party concerned in preventing the course of justice. The due process of law cannot be permitted to be slighted nor the majesty of law be made a mockery of by such acts or conduct on the part of the parties to the litigation or even while appearing as witnesses. Anyone who makes an attempt to impede or undermine or obstruct the free flow of the unsoiled stream of justice by resorting to the filing of false evidence, commits criminal contempt of the Court and renders himself liable to be dealt with in accordance with the Act. Filing of false affidavits or making false statement on oath in Courts aims at striking a blow at the rule of law and no Court can ignore such conduct which has the tendency to shake public confidence in the judicial institutions because the very structure of an ordered life is put at stake. It would be a great public disaster if the fountain of justice is allowed to be poisoned by anyone resorting to filing of false affidavits or giving of false statements and fabricating false evidence in a Court of law. The stream of justice has to be kept clear and pure and anyone soiling its purity must be dealt with sternly so that the message percolates loud and clear that no one can be permitted to undermine the dignity of the Court and interfere with the due course of judicial proceedings or the administration of justice."

In *Afzal and another Vs. State of Haryana and others*, , the Supreme Court has held that "a false or a misleading or a wrong statement deliberately and wilfully made by a party to the proceedings to obtain a favourable order would prejudice or interfere with the due course of judicial proceedings". In *The Secretary, Hailkandi Bar Association Vs. State of Assam and Another*, the Supreme Court has held that forwarding an inaccurate report with a view to misleading the Court and thereby interfering with due course of justice by attempting to obstruct the Court from reaching a correct conclusion, is gross contempt of Court.

11. Courts normally accept the material filed and statements made by the learned counsel. If the copies of documents signed and filed in Court as true copies are not what they purport to be, and the statements averred in the affidavits filed on oath in Court are not true and correct, it would mean that unmeritted advantage is sought to be gained and that there is interference with administration of justice. If in every case the material filed and the statements made by a counsel are to be viewed with suspicion and are to be inquired into, it would be impossible to proceed with the matters with the dispatch that is necessary. Counsel is an officer of the Court and he plays a very important part in the proper administration of justice; he has to act with due diligence and it is his bounden duty to disclose and place all the relevant material and the facts pertaining to a matter fairly and truly before the Court after satisfying himself about the authenticity and correctness of the same.

12. In view of the fact that the counsel, Mr. A. T. M. Rangaramanujam, filed a copy of the full remand report and the correct panchnama as additional material papers subsequently and he has tendered an unconditional apology today, I do not propose to proceed any further than administering a warning to him and cautioning him not to repeat any such interference with the administration of justice in the future.

13. Order accordingly.