

**(1999) 04 SC CK 0081**

**In the Supreme Court Of India**

**Case No : Civil Appeal No. 2200 Of 1999**

K. Sukhendar Reddy

APPELLANT

Vs

State of Andhra Pradesh and Another

RESPONDENT

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**Date of Decision : 05-04-1999**

**Acts Referred:**

Penal Code, 1860 (IPC) — Section 120, 406, 409, 420, 468

**Citation :** (1999) 10 JT 237 : (2000) 1 LLJ 474 : (1999) 2 SCALE 612 : (1999) 6 SCC 257 : (1999) SCC(L&S) 1088

**Hon'ble Judges :** S. Saghir Ahmad, J;R. C. Lahoti, J

**Bench :** Division Bench

**Final Decision :** Dismissed

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## **Judgement**

1. Leave granted.

2. The appellant, who is a member of the Indian Administrative Service, was placed under suspension by order dated 6.2.1997 passed u/s 3(1) of AH India Services (Discipline & Appeal) Rules, 1969, in contemplation of disciplinary proceedings which were proposed to be initiated against him. This order was substituted by order dated 13.2.1997 in which it was stated, inter alia, as under:

On a close scrutiny of the case, it was noticed that no disciplinary proceedings under All India Services (Discipline & Appeal) Rules, 1969 are contemplated against the Member of Service as of now. However, prima facie involvement and complicity of the Member of service in a case registered in Cr. No, 327/96 u/s 468, 471, 409 and 420 read with 120(b), I.P.C. of Anakapalli Town Police station came to light during the course of investigation into the said case by the C.I.D. The investigation by the C.I.D. is still in progress. The result of the final investigation by the above organisation may lead to a Criminal charge against those, involved in the case if the prima facie conclusions are confirmed. As such, placing the Member of service under suspension in exercise of the powers conferred under Rule (3) of the All India Services )Discipline & Appeal) Rules, 1969 has to be (sic) instead of Rule 3(1) thereof.

3. It was for the above reasons that the order of suspension was passed under Rule 3(3) of the All India Service (Discipline & Appeal) Rules, 1969. This order appears to have been passed on the letter of the Additional Director General of Police, C.I.D., Andhra Pradesh, addressed to the Chief Secretary to Government of Andhra Pradesh, in which it was suggested that the Government may consider taking suitable action against the appellant and if considered desirable, he may be placed under suspension in public interest pending enquiry into the matter.

4. The Criminal case referred to in the subsequent suspension order is based on a complaint of Malla Jagannadhan to the Superintendent of Police, Visakapattanam. dated 1.12.1996, on the basis of which a Crime case No. 326 of 1996 under Sections 468, 420, 406 read with 120B IPC was registered at Anakapalli Town Police Station which is still under investigation by the C.I.D.

5. Rule 3 of the All India Services (Discipline & Appeal) Rules, 1969 consists of two parts. The first part is contained in Sub-rule (1), which provides that a member of the All India Services can be placed under suspension pending disciplinary proceedings against him. The other part is contained in Sub-Rule (3) which provides that a member of the All India Services, who is involved in a criminal case, may be placed under suspension.

6. The appellant was placed under suspension on 6.2.1997 by an order passed by the Chief Secretary to the Govt. of Andhra Pradesh under Sub-Rule (1) of Rule 3 till the completion of the disciplinary proceedings against him. This order was subsequently replaced by another order passed on 12.3.1997, in which it was clearly spelt out that disciplinary proceedings against the appellant were not at all contemplated, but since he was involved in Crime case No. 327 of 1996 registered under Sections 468, 471, etc. by Anakapalli Town Police Station, he was being placed under suspension. This matter is still under investigation by the C.I.D. and a charge-sheet has not yet been filed in the case.

7. Another vital fact which has come on record is that in the criminal case a number of senior I.A.S. officers, even senior to the appellant, may be found involved, but nothing positive or definite can be said as yet as the investigation is likely to take time. The matter is pending with the Police since 1.12.1996 when the F.I.R. was lodged at Anakapalli Town Police Station. The investigation has not been completed although about two and half year has passed. We do not know how long will it take to complete the investigation. That being so, the officer of the rank of the appellant, against whom it has now come out that the disciplinary proceedings are not contemplated, cannot be kept under suspension for an indefinite period, particularly in a situation where many more senior officers may ultimately be found involved, but the appellant alone has been placed under suspension. The Govt. cannot be permitted to place an officer under suspension just to exhibit and feign that action against the officers, irrespective of their high status in the Service hierarchy, would be taken. -

8. We, therefore, allow this appeal and set aside the suspension order dated

12.3.1997 with the direction that the appellant shall be put back to duty and shall be paid all his arrears of salary upto date minus the suspension allowance, if any, already paid to him, leaving it open to the State Government to consider the feasibility of placing the appellant under suspension, if and when a charge sheet is filed by the C.I.D.

9. There will be no order as to costs.