

(1998) 04 AP CK 0088

In the Andhra Pradesh High Court

Case No : Writ Petition No. 34890 of 1997

Katasani Rami Reddy

APPELLANT

Vs

Government of A.P. and Others

RESPONDENT

Date of Decision : 02-04-1998

Acts Referred:

Constitution of India, 1950 — Article 21, 226
Penal Code, 1860 (IPC) — Section 302

Citation : (1998) 3 ALD 488 : (1998) 3 ALT 392 : (1998) CriLJ 3897

Hon'ble Judges : Billal Nazki, J

Bench : Single Bench

Advocate : Mr. G. Veera Reddy, for the Appellant; Government Pleader for Home, for the Respondent

Judgement

1. Rule Nisi.

2. The writ petition has been filed seeking a direction against respondents to provide Armed escort on payment of usual charges and on usual terms and conditions to the petitioner on the ground that there is threat to his life. The petitioner has stated in his writ petition that there is some rivalry going on between two political parties for a long time. He submits that on 27th May, 1979 his father as well as his six cousins were killed. He further states that on 29th April, 1986 his brother was murdered. He attributes all these murders to one Sri Bijjam Satyanarayan Reddy. He submits that there is rivalry between him and Sri Satyanarayana Reddy. they belong to different parties. One of the brothers of the petitioner is an MLA representing the congress party. The petitioner had filed earlier a writ petition being WP No.24456/96 for police protection and the Court had directed the concerned officers to consider the representation made by the petitioner. It appears that he was given police escort from June, 1997 till end of September, 1997. This petition was filed on the eve of general elections to the 12th Lok Sabha which have now been concluded. The petitioner had stated that because of elections he had to support a political party and therefore his threat

perception had increased.

3. The Court while entertaining this petition had by interim order directed respondents to provide armed escort to the petitioner on payment of usual charges and in accordance with usual terms and conditions. The State has moved an application for vacation of the said order and filed counter. I have heard learned Counsel for the parties. Since the controversy is very short, with the concession of the parties the writ petition itself is being disposed by this Court.

4. The respondents have stated in the counter that petitioner himself is a hardcore factionist. He has himself committed many offences and has committed many acts of violence and disturbed public order on several occasions. It has further been stated that criminal cases have been filed against him and a rowdy-sheet has also been opened relating to the petitioner in Owk P.S. vide RS No.8/KU. It is further submitted that although his brother is an MLA but it is not correct that because of petitioner supporting his brother he has earned enemies. They also admit that the rivalry between the petitioner group and some other group is age old and both have indulged in heinous offences from time to time. It is submitted that the risk, if any, to the life of the petitioner is not result of any political activity but result of offences committed by him and the counter offences committed by the other group. A detailed account of offences in which the petitioner is involved has also been given. He appears to be involved even in crimes u/s 302 of IPC. It is further stated by learned Counsel for respondents that it is not possible for the State to provide gunman to each individual and when persons are provided gun man by the State the over all law and order situation becomes vulnerable because the man power available with the police is not as sufficient to provide personal security to each and every individual who seeks such a security. The Counsel for the parties have drawn my attention to a judgment of this Court which has been decided by Division Bench and reported in G. Subas Reddy Vs. State of Andhra Pradesh and Another, . The facts in that case are almost similar to the present writ petition. The learned single Judge of this Court framed questions which were referred to Division Bench. The following question was before the Division Bench to be answered:

"Should this Court exercise its extraordinary jurisdiction under Article 226 of the Constitution of India and compel the authorities to provide security to all the persons who are either leading factions or actively participating in the factions ? and that almost all of them are facing serious criminal charges and, :

What are the parameters of judicial review in such a situation ? The legality and validity of the Government's policy decision, withholding security to all these factionists also would fall for consideration. Can the Court substitute its own view and declare the policy of the Government as illegal or unconstitutional ? Is it a judicially manageable situation where appropriate directions could be issued in each case compelling the police to provide security? Should the State be compelled to spend its limited resources to provide security to factionists and pass on the liability to tax payers ? Can the State provide the services of an

armed security guard to each citizen ? It is common knowledge and judicial notice can be taken about the prevalent culture of factions in Rayalaseema which had already destroyed the peace and tranquility of the common man who is constantly living under threat of fear. What security is to be provided to those innocent victims of faction violence and by whom?"

After considering the whole law on the subject the Division Bench laid down certain principles for the guidance of the respondents in the matter of providing security to the persons concerned. One of the principles laid down is under item No.(5) which will be applicable to the present case. Principle (5) lays down as under :

"(5) Individual or individuals, who apprehend threat to peace and to his or their lives can approach the competent authority at the first instance at the district level and make application for deployment of special force for maintaining peace and for protection of his or their lives and liberty. On such application being made, the competent authority shall be duty bound to promptly make suitable orders without any delay. In case the application is rejected by the district authority, the applicant shall have the right to make application before the superior authority in the hierarchy as indicated above, the last being before the Government of the State. The applicant/ applicants for such security or deployment of Special Police force shall, however, be responsible for the cost as envisaged under the Acts aforementioned and the Government shall have no authority at all to make any expense upon such special force from and out of the revenue of the State."

After laying down the principles the Division Bench also held that, it is the duty of the State to provide security to every citizen. Applying the principles laid down by the Division Bench, it is for the District Superintendent of Police to decide about the representation made by the petitioner.

5. While following the principles laid down by the Division Bench, I will add further that, the questions whether security is to be provided to the individual or not by the State is dependent upon the threat perception with regard to that individual, and what is the amount of threat and whether the threat is real or imaginary, and in case there is threat, what is the degree of the threat to an individual's life, cannot be considered either by this Court or by any other agency other than the police force itself. Police is the competent authority and it is equipped with facilities like intelligence services to come to a conclusion about threat perception of an individual. Therefore, whenever an application is made before a District Superintendent of Police by an individual for providing personal security to him, while disposing of such an application the District Superintendent of Police should invariably record his finding with regard to the threat perception. Once such a finding is recorded, it will be open for such an individual to agitate the matter further, if the concerned Superintendent of Police does not come to correct finding with regard to threat perception. This will also enable the District Superintendent of Police to decide as to how much personal

security is needed by an individual. Otherwise, unless he knows the level of the threat he cannot be able to decide the matter. It is also well known that, some times threat to one's life can remain life long depending upon the circumstances and the incidents which are relatable with respect to such an individual, but some times threat to one's life may be temporary and in such a case continuous security may not be needed. Therefore, whenever personal security is provided to a person it must be constantly reviewed by the concerned Superintendent of Police and when on the basis of information available with him he genuinely feels that the threat has vanished, he may recall the security.

6. In view of the discussion above, I dispose of this writ petition with a direction to the Superintendent of Police to decide the application of the petitioners in accordance with the directions given by Division Bench and also in accordance with the directions given by this Court hereinabove which are supplementary to the directions of Division Bench, within a period of two weeks. In the meantime, the interim order shall remain operative till the District Superintendent of Police decides the representation of the petitioner.

7. While disposing of this writ petition, I would also like to direct the State authorities that whenever an application is made by an individual for providing personal security, that application must be decided within shortest possible time and if it is not possible, then the person must be provided security till the application is decided because if the authorities take time, say of one week or two weeks, to decide the application., it might be too late in certain cases where even before Police decides on the application the threat may be carried. No costs.