

(1994) 09 AP CK 0005

In the Andhra Pradesh High Court

Case No : Writ Petition No. 14874 of 1994

Khaja Masihuddin

APPELLANT

Vs

The Govt. of A.P. and Others

RESPONDENT

Date of Decision : 08-09-1994

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (1995) 1 ALT 84 : (1994) 2 APLJ 216

Hon'ble Judges : B. Subhashan Reddy, J

Bench : Single Bench

Advocate : M.A. Bari and Ahmed Hussain, for the Appellant;

Final Decision : Dismissed

Judgement

B. Subhashan Reddy, J.—This writ petition is filed seeking compensation of Rs. 1.00 lakh as a result of sabotage by extremists by putting undermine bomb blast.

2. The petitioner states that he is the owner of a Jeep bearing registration No. APK 9284 which was later assigned a fresh No. AIF 3567 and that the same was run as a taxi-cab at Jagtiyal of Karimnagar District; that some persons have taken the vehicle for hire on 1-8-1989 to visit Beerpur village to attend the funeral of the Sarpanch of the said village who was slain by the extremists a day before. When the jeep reached the outskirts of Potharam village it was blasted by undermine blast, controlled by the remote control resulting in the smashing of the vehicle and the death of 15 persons who were the inmates thereof. Crime No. 16/89 Under Sections 148, 149, 302 I.P.C. read with Section 3 and 5 of TADA Act was registered in the designated Court.

3. Here, we are not concerned with the prosecution aspect or death of the inmates of the jeep. The claim is laid by the owner of the jeep on the ground that the jeep was worth Rs. 1.00 lakh and it was completely smashed on account of the blasting mentioned above. The claim of the petitioner is based on the ground that the State is liable for the payment of the said amount towards compensation

on account of loss to the jeep. Negligence attributed is that the police were well aware that it was a naxal infested area and several persons will be using that road to reach Beerpur village to attend the funeral of the Sarpanch and that the police ought to have been alert to see that nobody suffers on account of the further acts of sabotage by naxals and as a matter of precaution, the road which was being used on that day and on which the jeep was plying ought to have been sealed and had it been sealed, this calamity would not have occurred. But this claim is far-fetched and by not sealing the road, it cannot be said that there is a culpable negligence on the part of the State or its servants i.e., the policemen and no liability on that account can be fastened.

4. I am fortified in my view above, as I have already taken that view in *Sri Lakshmi Agencies and Others Vs. Govt. of A.P. and Others*, and as such I reject this claim. But if the kith and kin of the inmates of the jeep, who were killed because of the undermine bomb-blast were paid ex-gratia, I do not see any reason or justification to discriminate the owner of the jeep. I cannot specify the amount of ex-gratia but I hope and trust that the 1st respondent will consider the said aspect, so that the equity clause under Article 14 of the Constitution of India is satisfied. However, the petitioner may have to make an application in that regard claiming ex-gratia payment.

5. Subject to the above observations, this writ petition is dismissed. No costs.