
(1998) 10 AP CK 0004

In the Andhra Pradesh High Court

Case No : Writ Petition No. 8829 of 1998

Mashin Ali Khan alias Mujeeb

APPELLANT

Vs

State of A.P. and Others

RESPONDENT

Date of Decision : 13-10-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1999) 2 ALT 133

Hon'ble Judges : G. Bikshapathy, J

Bench : Single Bench

Advocate : P.S. Narayana, for the Appellant; Govt. Pleader for Home for Respondent Nos. 1, 2 and 7 and B. Nalini Kumar, for the Respondent

Final Decision : Dismissed

Judgement

B. Bikshapathy, J.—This writ petition is filed seeking a Writ of Mandamus directing the 1st respondent-State Government to appoint a Judge not below the rank of District Judge to initiate a detailed enquiry into the allegations with regard to the news item published in Eenadu Telugu Daily on 28-3-1998 and submit a report and further declaring the unauthorised and illegal action of the respondents 2 to 6 in conducting frequent raids on the house of the petitioner and taking away the valuable articles from his house and a consequential direction to return the articles or refund the value of the articles together with compensation of Rs. 5.00 lakhs.

2. As per the averment in the petition, it is stated that a news item was published on 28-3-1998 in Eenadu Telugu Daily stating that number of antisocial elements are moving in Jahanuma area and number of crimes are being committed. The Police is not taking any action against these anti-social elements and rowdy-sheeters. It is the case of the petitioner that by taking a clue from that news item, the petitioner is being harassed from time to time by the Police. The petitioner further states that on account of the incident which took place on 25-3-1995 in Moghulpura, the petitioner is being subjected to harsh treatment in

the hands of the police. It is stated that the Police raided the house of the petitioner in the month of March, 1998 and seized valuable articles and also the Gym material without any authority of law. Thus the action of the Police is highly reprehensible and that necessary enquiry should be ordered into the conduct of the Police in seizing and harassing the petitioner from time to time. Therefore, the petitioner seeks appropriate direction and also compensation for the illegal acts committed by the police.

3. In the counter filed on behalf of the Police, it is stated that the petitioner, his brother and his father were involved in series of crimes and as far as the petitioner is concerned, he is involved in six crimes which are pending investigation. It is also stated that father of the petitioner was involved in more than 20 criminal cases and his brother in 8 criminal cases. The version of the police is that the petitioner, his father and his brothers were not only responsible for the outbreak of law and order but they were rowdy elements and also robberers and dacoits involved in various cases. As regards the incident relating to March, 1998, it is stated that a complaint was received to the effect that the petitioner committed theft of certain articles and therefore, on the basis of the report, the petitioner's house was raided and a number of Gym articles were seized and deposited in the Police Station and the investigation is in progress. It is also stated that a number of instances are there where the petitioner was involved in various criminal cases. Therefore, they submit that there are no merits in the writ petition and the same is liable to be dismissed.

4. The learned Counsel appearing on behalf of the newspaper, stated that the application (sic. publication) of news item was admitted. However, it is stated that the said news item was published basing on the incidents which are taking place in Jahanuma area. It is further submitted that the petitioner did not claim any relief against the editor of the newspaper.

5. The point that arises for consideration is whether the relief as prayed for by the petitioner can be awarded by this Court under Article 226 of the Constitution of India. Sri P.S. Narayana, learned Counsel appearing for the petitioner made elaborate arguments on the method and the manner in which the police is conducting themselves with a citizen. He further submits that even though the petitioner is involved in the alleged crimes, yet there is no authority for the police to act illegally and contrary to law. It shows only the high-handedness on the part of the police and should be arrested by this Court and necessary compensation should be awarded as he was subjected to cruel treatment in the hands of the police and his status is also reduced in the society. He made an earnest effort to convince this Court that it is a fit case where an enquiry should be ordered by a Judicial officer and further action should be taken on the basis of the said enquiry against the police and for ordering compensation depending upon the merits of the case.

6. At the outset, this Court sitting under Article 226 of the Constitution of India is precluded from adjudicating the matters which are in serious dispute. Admittedly,

in the present case, since the petitioner is claiming for return of the articles and also for the compensation for the illegal acts alleged to have been committed by the police, it is a matter to be decided on the facts of each case and this Court is not inclined to go into the matter, where the disputed question of fact is involved. Moreover, it is stated in the counter that the petitioner was involved in a number of cases and the articles were seized in pursuance of the complaint received by the police. In such an event, it would be most inappropriate to interfere with any such matters. It is for the police and the petitioner to take appropriate action in accordance with law. The grievance of the petitioner that he is being subjected to frequent raids and that a direction should be issued to the police not to conduct such raids without authority of law, is devoid of merits. In the instant case the police has come with an explanation that whenever raids were done, they were conducted in pursuance of the complaints received from the third parties. In such an event, whether the raid is illegal or justified, cannot be gone into by this Court, but it is necessary that whenever any raids are conducted, the police shall conduct the same in accordance with law and they cannot take the law into their hands especially when personal liberty of the citizen is sought to be deprived of. Since the question involved is finding of fact, I am not inclined to exercise the jurisdiction under Article 226 of the Constitution of India and extend the same to the finding of the facts.

7. In these circumstances, I do not find any merit to proceed with the matter any further. Accordingly, the writ petition is dismissed. If the petitioner feels that he is entitled for the compensation for the alleged illegal acts committed by the police, I leave it open to him to agitate the same before the appropriate forum. No costs.