

(1974) 11 KAR CK 0003
In the Karnataka High Court
Case No : Writ Petition No. 6234 of 1974

S.G. Nagabhushan Rao

APPELLANT

Vs

The State of Karnataka and Another

RESPONDENT

Date of Decision : 18-11-1974

Acts Referred:

Constitution of India, 1950 — Article 19 (1) (g)

Citation : AIR 1975 Kar 132 : (1975) 1 KarLJ 475

Hon'ble Judges : E.S. Venkataramiah, J

Bench : Single Bench

Advocate : M.S. Gopal, for the Appellant;

Judgement

1. The petitioner is an Advocate. He appears for the complainant in P. G. No. 16 of 1974 on the file of the Judicial Magistrate, First Class, Sindhnur. The petitioner is blind. Hence he made an application before the Judicial Magistrate, First Class, Sindhnur, to allow him to record the proceedings of the Court with the aid of a tape-recorder in order to facilitate the conduct of the case. The learned Magistrate rejected the above application. Hence this petition.

2. At the outset it should be mentioned that there is no statutory provision or a rule of practice which authorises a Counsel or a party in a proceeding before a Court to have the proceedings of the Court recorded on a tape. Hence the question of issuing any writ in the nature of mandamus or other direction to the Judicial Magistrate does not arise.

3. It is, however, argued by Mr. M. S. Gopal learned Counsel for the petitioner, that the order of the Magistrate refusing to permit the petitioner to make use of a tape-recorder is violative of the Article 19(1)(g) of the Constitution, It is contended that the order imposes an unreasonable restriction on the fundamental right of the petitioner to carry on his profession. I do not agree. It is admitted that the petitioner has been practising in the High Court of Andhra Pradesh for some time past and he has been able to carry on his profession with

the aid or assistance of another Counsel who reads to him the records of the cases. For the first time the petitioner has been engaged in an original proceeding where witnesses would be examined and cross-examined in the case in which the impugned order is passed.

4. The question for consideration is whether the Magistrate was right in declining to accede to the request made by the petitioner. While dealing with this case the Court has to bear in mind that the request pertains to the judicial proceedings in Court and consider in that background whether the order passed by the Magistrate is a reasonable one or not. Sri. Gopal, learned Counsel for the petitioner, has not drawn my attention to any precedent in which a Court administering justice has allowed its proceedings to be tape recorded. I am of the view that certain amount of solemnity is attached to the proceedings before Courts and that it is likely to be affected if the proceedings in Court are permitted either to be tape-recorded or filmed. We have to remember that witnesses who come to Court should be able to speak before the court without any reservation and the placing of a gadget of the type of a tape-recorder is likely to disturb them and interfere with the administration of justice.

5. Although the prayer that was made before the Court below was that all the proceedings should be permitted to be tape-recorded, at the preliminary hearing of this petition, Sri Gopal submitted that the petitioner may at least be permitted to get the depositions of witnesses tape-recorded. It was contended that the petitioner who was physically handicapped required the assistance of a tape-recorder in order to present arguments before the Court effectively. If the petitioner can argue a case effectively before a High Court with the help of the records containing certified copies of the depositions also there should be no difficulty for the petitioner to argue a case in a trial Court effectively if he is supplied with the certified copy of the depositions before he is asked to argue the case. It was, however, contended that the recording of the deposition of witness on a tape would be necessary in order to cross-examine him after he is examined-in-chief. On this point I do not find any difference between an Advocate with eyes and Advocate without eyes because both of them will be in the same position, and neither of them would be able to have certified copies of the evidence before cross-examining a witness. The petitioner who would be present in Court and hearing the witnesses depose should be able to cross-examine the witnesses in the same way in which an Advocate without the same handicap can do.

6. I do not, therefore, find any merit in this petition. This writ petition fails and is dismissed. No costs.

7. The Judicial Magistrate, First Class, is, however, directed to supply certified copies of depositions of all the witnesses to the petitioner before calling upon him to argue the case.

8. Petition dismissed.