
(2003) 07 AP CK 0074

In the Andhra Pradesh High Court

Case No : Writ Petition No. 11279 of 2002

Smt. Glory Silva Marlapudi

APPELLANT

Vs

Dr. Prem Kumar Marlapudi and Others

RESPONDENT

Date of Decision : 25-07-2003

Acts Referred:

Cinematograph Act, 1952 — Section 7, 7(1)
Penal Code, 1860 (IPC) — Section 294

Citation : (2003) 5 ALD 307 : (2003) 2 ALD(Cri) 392 : (2003) 2 AnWR 312

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : S.R. Sanku, for the Appellant; B. Appa Rao, SC for Central Government, for the Respondent

Final Decision : Allowed

Judgement

V.V.S. Rao, J.—The petitioner is a proprietor of M/s. Sairam Picture Palace, Jammalamadugu, Cuddapah District. He holds B-form licence under A.P. Cinemas (Regulation) Act, 1955 and A.P. Cinemas (Regulation) Rules, 1970. On 5.6.2000 the respondents visited the theatre. They conducted a panchanama and seized and sealed theatre on the allegation that the petitioner was screening obscene films and allegedly committed offence u/s 294 of Indian Penal Code (IPC) and Section 7 of the Cinematograph Act, 1952 (Central Act). Challenging the action of respondents in seizing and sealing the theatre, the writ petition is filed.

2. While admitting the writ petition this Court on 12.6.2000 issued interim orders in W.P.M.P. No. 12555 of 2000 directing the respondents to lift seizure of the theatre and permit the petitioner to exhibit films. This Court also observed that seizure of the theatre by the respondents is without any authority of law.

3. A counter affidavit is filed by Inspector of Police, Jammalamadugu on behalf of first respondent. The counter affidavit has not pointed out any provision of law which authorizes the Police to seize and seal cinema theatre or any immovable property except stating that the theatre was exhibiting offending films. It is

further stated in the counter affidavit that after seizing five reels under panchanama the Inspector of Police and the Mandal Revenue Officer seized the theatre in public interest to prevent the petitioner from screening any obscene films. The lessee of the theatre, Kagithala Shaik Rizwan, Operator, Chulake Lakshmi Narayana, who were accused in Crime No. 74 of 2000 registered u/s 294 of IPC read with Section 7(1)(a) of Cinematograph Act were arrested. Subsequently, both of them were released on bail by the Court of Judicial Magistrate of First Class, Jammalamadugu.

4. Insofar as arrest of the persons, who are alleged to have been committed offence u/s 294 of IPC, which is a cognizable offence, and seizing five reels of the offending film is concerned, there cannot be any objection for they directly relate to commission of the offence. Sealing and seizing the theatre is, however, not authorized in law. I may, however, hasten to add that when on allegation that the licensee of the theatre is screening obscene or pornographic films, B-form licence is cancelled or suspended theatre cannot be used for screening any films. However, at the stage of investigation in relation to a criminal case the Police do not have any powers to seize the cinema theatre or projector. The action of the Inspector of Police, and the Mandal Revenue Officer, Jammalamadugu is wholly without jurisdiction and not authroised by law, and it is abuse of law and high handed action. It must be remembered public interest and public welfare cannot always be as perceived by the authorities enforcing law. If the law permits certain action, the authorities, however wide their powers might be, cannot come to a conclusion that doing otherwise would subserve public interest. No public authority can abuse law purporting to champion the cause of public interest. The Rule of Law requires that public interest should be suspended as per Rule of Law and not otherwise.

5. The writ petition, for the above reasons, is allowed with costs quantified at Rs. 1,500/-.