

Emperor Vs. Trimbak Hari Tulpule

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Court : Mumbai

Decided On : Jul-01-1943

Reported in : (1943)45BOMLR893

Judge : John Beaumont, Kt., C.J. and Rajadhyaksha, J.

Appeal No. : Criminal Application No. 255 of 1943

Appellant : Emperor

Respondent : Trimbak Hari Tulpule

Judgement :

John Beaumont, Kt., C.J.

1. This is an application of a somewhat unusual character, and, in my opinion, it is entirely misconceived. The applicant is an under-trial prisoner, who is in custody in the Yeravada Jail, and he has been charged with serious offences involving violence. His complaint is that although he is an under-trial prisoner, and although he has not committed any jail offence, he is kept in fetters in a part of the prison usually reserved for prisoners sentenced to death, and he is not allowed to interview his legal adviser in the presence of his co-accused, one of the offences charged being conspiracy. He asks this Court to interfere on his behalf. His last objection seems to me to be a peculiarly idle one. If these accused persons are all telling the truth to their legal advisers, there is no reason whatever why one should be present when another is interviewing his legal adviser. Of course, if they want

to agree upon a false story, collaboration would be useful. But it is no part of the duty of the jail authorities to assist prisoners in concocting a false story. It is not suggested that the applicant has been denied the right to interview his own legal adviser, which he is entitled to do, under the Prison Rules.

2. With regard to the other allegations, in my opinion, this Court has no jurisdiction to interfere in matters of jail administration. We directed notice of the application to be served on the Government Pleader, and he has supplied us with a statement from the jail authorities, which, at any rate, satisfies us that this is not a case which is being dealt with by some subordinate officer. But, in my opinion, this Court could not interfere in a matter of jail administration, even if it were shown that one of the rules in the Jail Manual had been broken. The remedy of the injured party is to appeal to the higher jail authorities, and ultimately to Government in whose charge the jails are. If this Court were to make an order that the prisoner's chains are to be taken off, or that he be removed from one cell to another. I have considerable difficulty in seeing how we could enforce our order. We cannot break into the jail. What we could do, under Section 491 of the Criminal Procedure Code, is to direct the applicant to be brought before us, and to satisfy ourselves that his detention is legal, and if we thought that there was any serious abuse of the rules in the Jail Manual in the case of a prisoner in the jail where he is incarcerated, we might perhaps send him back to some other jail. But we have no direct power to interfere with the administration of jails. The only authority cited in support of the proposition that we can so interfere is a decision of the Lahore High Court in *Sukh Dev Raj v. Emperor* (1931) Cr.L.J. 988. I will only say that, in my opinion, the Court in that case went further than they had jurisdiction to do.

3. The application is, therefore, rejected.

Rajadhyaksha J.

4. I agree.