

**G. Thirupaliah Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/429046](http://sooperkanoon.com/429046)

**Court :** Andhra Pradesh

**Decided On :** Jul-13-1965

**Reported in :** AIR1966AP223; 1966CriLJ745

**Judge :** Anantanarayana Ayyar, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 257(2); Madras Criminal Practice Rules, 1931 - Rule 384; Madras Criminal Practice Order, 1931

**Appeal No. :** Criminal Revn. Case No. 243 of 1965

**Appellant :** G. Thirupaliah

**Respondent :** State

**Advocate for Def. :** K. Somakonda Reddy, Adv. for ;O. Chinnappa Reddy, Public Prosecutor

**Advocate for Pet/Ap. :** K. Jayachandra Reddy, Adv.

**Disposition :** Petition allowed

**Judgement :**

ORDER

**Anantanarayana Ayyar, J.**

1. In C. C. No. 2 of 1964, the Public Prosecutor filed a complaint against one Thirupalaiah complaining of an offence under Section 500 I. P. C. for having defamed a Government servant viz. Tahsildar in the discharge of his duties. In that case, the accused cited defence witnesses. The learned Addl. Sessions Judge, Cuddapah has passed an order directing the accused to deposit reasonable charges for the defence witnesses. The petitioner filed this petition to revise the above order.

2. The learned Additional Sessions Judge passed the order on the basis of Section 257(2) Cr. P. C. It is mentioned in the said section that the Magistrate may require reasonable expenses of witnesses to be deposited in the Court.

3. Rule 384 of the Criminal Rules of Practice runs as follows:

'..,... the Criminal Courts will pay, at the rates specified in Rule 387, the expenses of complainants and witnesses in cases in which the prosecution is instituted or carried on by, or under the orders or with the sanction of the Government, or of any Judge, Magistrate or other Public Officer, when it shall appear to the Judge or Magistrate presiding over such Courts to be directly in furtherance of the interests of public justice.....'

4. The complaint was filed by the Public Prosecutor under Section 198B of the Cr. P. C. Sub-section (3) of that section runs as follows:

'No complaint under Sub-section (1) shall be made by the Public Prosecutor except with the previous sanction .....

(c) in the case of any other public servant in connection with the affairs of the Union or of a State, of the Government concerned.'

Obviously, the Public Prosecutor filed the complaint on the basis of sanction by the Government for filing of such complaint. The Government unit sanctioned such filing of a complaint because it considered necessary to do so for furtherance of the interests of justice. The trial of this case is held in the interests of justice. The prosecution is conducted in the interests of justice. The presence of prosecution witnesses is secured by payment of batta to them at Govt.'s test because their

examination is necessary in the interests of justice to enable them to depose to facts which would show that defamation was committed. It would be equally in the interests of justice to give facility for letting in evidence of defence witnesses which would show that the accused did not commit the offence.

It cannot be said that prosecution evidence, which would aim at showing that the accused committed the offence, is only in the interests of justice and that the letting in of any other evidence, even if it be called defence evidence, is not in the interests of justice. For, the interests of justice required that the court should ascertain and give a decision whether the accused committed the offence or did not commit the offence. It is not as if the interests of justice required that the Court should invariably decide that the accused committed the offence. So payment of batta to every witness, whose evidence enables the Court to decide whether the accused be guilty or not, whether it be prosecution evidence, is done in the interests of justice. Therefore, in any prosecution instituted and carried on by a Public Officer, payment of expenses of defence witnesses also would be in furtherance of the interests of public justice so as to enable the accused to prove that he has not committed the offence which is concerned in the case,

5. In the result, I allow this revision, set aside the order of the lower Court and hold that batta for the defence witnesses should be paid by the lower Court under Rule 384 of the Criminal Rules of Practice.

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