

Kasu Krishna Reddy Vs. Central Election Commission and ors.

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SooperKanoon Citation : sooperkanoon.com/445206

Court : Andhra Pradesh

Decided On : Sep-29-1999

Reported in : 1999(5)ALT387

Judge : B. Subhashan Reddy and ;V. Eswaraiah, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : Writ Petition No. 18471 of 1999

Appellant : Kasu Krishna Reddy

Respondent : Central Election Commission and ors.

Advocate for Def. : C.P. Sarathi, Sr. Counsel for the 1st Respondent, ;Sanghi, Adv. for the 2nd Respondent and ;D. Prakash Reddy, Addl. Adv. General for the 3rd Respondent

Advocate for Pet/Ap. : S. Ramachandra Rao, Sr. Counsel for ;T. Suryakaran Reddy, Adv.

Disposition : Writ petition allowed

Judgement :

ORDER

B. Subhashan Reddy, J.

1. An unfortunate incident has occurred on 28th August, 1999 at 10 p.m. at Narasaraopet of Guntur District. A place where life is infused, four lives were snuffed out. Instead of life-saving material, there was found life-threatening material i.e., bombs and bomb-making material, which have exploded. Result was loss of four lives, who succumbed to severe bomb-blast injuries. The building was rocked and some portion of it was blown off into rubbles. The scene of offence is Nursing Home-cum-residence at Rajakota Centre of Narasaraopet run under the name and style of Lakshmi Nursing Home/ Palnadu Poly Clinic. In a three-storied building on an area of 3850 sq. yards (3250 sq. yards standing in the name of Dr. Kodela Siva Prasad Rao and 600 sq. yards standing in the name of his wife Smt. Kodela Sashikala). Dr. Kodela Sivaprasad Rao, the Minister for Panchayat Raj resides in one of the portions alongwith his family members, who include his wife-Smt. Kodela Shashikala, his two sons and his father-Mr. Kodela Sanjeevaiah - along with host of servants. In other portion, hospital is run and yet another portion is being used for the Office of Telugu Desam Party.

2. The case assumed importance as the blast occurred on the eve of ensuing elections to the Assembly and Parliamentary Constituencies. Elections have been notified on 11th August, 1999 for 17-Narasaraopet Parliamentary Constituency and 7 of its Assembly segments of which 109-Narasaraopet is the one. The petitioner is the contestant to the said Assembly Constituency as the nominee of Congress-I Party, while Dr. Kodela Sivaprasad Rao, who is presently a Minister in the Cabinet of State Government is the contestant on behalf of the ruling Telugu Desam Party. Suffice it to say that the incident had sent shock waves through out the State. Narasaraopet and the surrounding areas were tense.

3. Crime No. 336/99 was registered by Narasaraopet Town Police Station for the offences Under Sections 3 and 5 of Explosive Substances Act, on the report given by Circle Inspector of Police, as it is stated that nobody came forward to lodge a complaint. Four persons, namely, Yelavarthy Raghunadha Rao alias Raghu, Gadiparthi Srinivasa Rao alias Choudhary Sreenu, Poodota Satish Kumar and Seedamsetty Koteswar Rao alias Koti died in the said incident. While Yelavarthy Raghunadha Rao alias Raghu died on the spot, three others were struggling for their lives with severe blast injuries. They were shifted to Peoples Trauma and

Emergency Hospital, Guntur. But, Gadiparthi Srinivasa Rao alias Choudhary Sreenu succumbed to injuries on the way to the hospital, while Poodota Satish Kumar died immediately on reaching the said hospital and Seedamsetty Koteswar Rao died a little later.

4. Formalities, such as inquest and post-mortem, were conducted and the viscera and tissues of the deceased persons were preserved and sent to Forensic Science Laboratory for analysis and report. Scene of offence was photographed and videographed and the material found there was seized.

5. The above writ petition has been filed on 30-8-1999 seeking directions to the Central Election Commission to take all necessary steps for the proper conduct of free and fair elections in the Narasaraopet Assembly and the Narasaraopet Parliamentary Constituency including appointment of Special Observers and engagement of Special Central Police Force in the said constituencies and to ensure fulfilled enquiry into the said act as a poll violence by the Central Bureau of Investigation. State Government, though a necessary party, was not made a party and on a query posed by the Court, Mr. S. Ramachandra Rao, the learned Senior Counsel for the petitioner urged the Court to permit him to make the State Government as a party and on such permission being accorded by the Court, State Government was made a party as 3rd respondent. Mr. C.P. Sarathi, the learned Senior Counsel appeared for the 1st respondent-Central Election Commission, while Mr. Sanghi appeared for the 2nd respondent-Central Bureau of Investigation. Mr. D. Prakash Reddy, the learned Additional Advocate-General appeared for the 3rd respondent-State Government.

6. On 1st September, 1999, Mr. C.P. Sarathi, the learned Senior Counsel has submitted before us the proceedings of the Election Commission of India contained in 464/HP-LA/AP99, dated 31-8-1999 which reads that in view of the bomb blast and the impact created thereto, the Election Commission came to the conclusion that the polls, both for Parliamentary Constituency and the 7 Assembly segments comprised therein, have been postponed to 3rd October, 1999. The case was then posted to 6th September, 1999 to enable the learned Additional Advocate-General to get the instructions. Records were also called for including

the reports of the District Collector and Superintendent of Police, Guntur, as also of the Director-General of Police. Letters addressed by the Chief Electoral Officer and the Special Secretary to the Government to the Director-General of Police on 2nd and 7th September, 1999 have also been perused. We have also perused the latest fax message dated 7th September, 1999 of Election Commission of India addressed to the Chief Electoral Officer of Andhra Pradesh. We have also perused the latest status report sent by the Election Commission of India and the Chief Electoral Officer, A.P., dated 19th September, 1999. We have perused the entire records submitted by the learned Additional Advocate-General including that of finger print reports and Forensic reports.

7. In so far as the steps to be taken for the proper conduct of free and fair elections as also appointment of Special Observers and engagement of Special Central Police Force is concerned, having regard to the information supplied by the Election Commission of India and the Chief Electoral Officer of this State, to this Court, we are satisfied that all such steps which are necessary for the proper conduct of free and fair elections in Narasaraopet Parliamentary Constituency and the 7 Assembly segments therein, have been taken. As such, no directions in that regard are warranted. Then remains, the other issue regarding the demand of probe into the above bomb blast explosion incident on 28-8-1999 by the Central Bureau of Investigation, instead of the State Police.

8. The incident has occurred at 10 p.m. on 28-8-1999. Narasaraopet Town Police Station got telephonic information at 11 p.m. and then both the Circle Inspector and Sub-Inspector went to the scene of occurrence. Neither the injured were in a position to give statement nor did anybody come forward to give statement. The Circle Inspector prepared occurrence report and got registered as FIR at 12 mid-night. The Superintendent of Police, Guntur, Additional Superintendent of Police as also Sub-Divisional Officer, Narasaraopet, have visited the scene of occurrence. No witness was examined on the said night or the following day. Circle Inspector of Police had examined M/s. Dr. Moparathi Venkateswar Rao, Dr. Kadiala Venkateswara Rao and Dr. Marri Peddaiah on 30-8-1999 and on the next day (31-8-1999), he had examined 12 witnesses. On 1-9-1999, he had examined 14 witnesses. 5 witnesses were examined on 2-9-1999 and important among them

is Dr. Veerisetty Saila Kumari and 13 more witnesses were examined on 3-9-1999. 4 witnesses were examined on 4-9-1999, among whom Dr. Kamineni Achutha Babu is important one. 2 witnesses were examined on 6-9-1999. 3 witnesses were examined on 7-9-1999. 8 witnesses on 11-9-1999, 3 witnesses on 14-9-1999, 7 witnesses on 15-9-1999, one witness on 16-9-1999, 2 witnesses on 17-9-1999 and one witness on 18-9-1999, were examined. One witness was examined and Nandigam Lingaiah who was already examined was further examined on 20-9-1999. One witness was examined on 21-9-1999. On 21-9-1999, a memo was filed in the Court of VII Additional Munsif Magistrate, Guntur producing one Mr. Pemmasani Srinivas Rao alias Beecharam Sreenu, to be one of the accused in the above occurrence as having been arrested on the said date at 7 a.m. at Indira Gandhi statue at Peddacheruvu Lenin Nagar, Narasaraopet and he was remanded to judicial custody. According to the police, the other accused is one Vemulapally Venkata Narsaiah and he is at large and teams were deployed to identify the involvement of others, if any, and that the investigation is in progress.

9. In fact, Mr. Pemmasani Srinivasa Rao was already examined on 2-9-1999 as witness No. 35 and was re-examined on 10-9-1999. While M/s. Kodela Sanjeevaiah, Kodela Sivaramakrishna, Kodela Satyanarayana and Kodela Shashikala were there available in the house at the time of the incident, they were not examined immediately. Even Dr. Kamineni Achutha Prasad, who went to the scene of offence immediately after knowing the same was not examined either on 28-8-1999 or even the next day. He was examined only on 4-9-1999. Mr. K. Sanjeevaiah, the father of Dr. Kodela Sivaprasad Rao, was examined on 10-9-1999. Two sons of Dr. Kodela Sivaprasad Rao, namely, Kodela Sivaramakrishna and Kodela Satyanarayana were examined on 14-9-1999. Smt. Kodela Shashikala was examined on 16-9-1999. Dr. Kodela Sivaprasad Rao has not yet been examined. Who were the accused was not indicated in the First Information Report. Much later, the four deceased were shown as accused and (that of) Pemmasani Srinivasa Rao as the 5th accused. Lease-deed dated 19-9-1998, even though contains the signatures of Smt. Kodela Shashikala and Dr. Kamineni Kavitha, is not a document, which was produced before the Central Bank of India, Narasaraopet for securing the loan for the reason that loan application was filed by Smt. Kamineni Kavitha much before i.e., on 31-8-1998 and in the pre-sanction

report dated 4-9-1998, after inspection of the premises No. 2-15-53, Narasaraopet, the loan was sanctioned. As such, the basis of possession and as to whether there was any document for such nature of possession as a lessee for the period between 3-5-1998 and 19-9-1998 has to be probed into. The factum of the filing of the lease-deed dated 19-9-1998 before the bank also needs a probe. This is in the context of the possession of Kamineni Kavitha and her husband - Dr. Kamineni Achutha Babu before 19-9-1998, as spoken to by Dr. Achutha Babu and also Mr. Kodela Sanjeevaiah that Palnadu Poly Clinic was being run from 3-5-1998 at a monthly rent of Rs. 10,000/- per month. This aspect also needs a probe. In the municipal records produced, Dr. Kodela Sivaprasad Rao is recorded as the owner of the premises bearing No. 2-15-53, Rajagarikota of Narasaraopet. The aspect with regard to authority of person other than the owner i.e., Dr. Kodela Sivaprasad Rao to enter into lease transaction also needs a probe. That apart, it is obvious from the Fingerprint Expert's report that the sublease said to have been executed by Dr. Kalyana Chakravarthy in favour of Pudhota Satish Kumar is found to be a forged document. Then the complicity of Dr. Kamineni Achutha Babu who has endorsed the same as a true copy and Dr. Kalyana Chakravarthy who has signed the said document as an alleged Lessor needs a thorough probe.

10. At this stage, it is not desirable that we should dwell on the merits of the prosecution case. Suffice it to say that the local police who had initially investigated into the offence as also the C.I.D. which has taken over the later investigation, were complacent and, thus, a case is made out for investigation by the Central Bureau of Investigation and as such, we direct the 3rd respondent to entrust the investigation of Crime No. 336 of 1999 of Narasaraopet Town Police Station to Central Bureau of Investigation - the 2nd respondent herein, forthwith.

11. The writ petition is allowed to the extent indicated above. No costs.