

P.V. Narasimharao Vs. State

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Court : Delhi

Decided On : May-19-1997

Reported in : 1997IVAD(Delhi)1; 1997CriLJ3117; 67(1997)DLT567; 1997(42)DRJ78; ILR1997Delhi376

Judge : Mohd. Shamim, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 482; [Code of Civil Procedure \(CPC\), 1908](#) - Order 1, Rule 10

Appeal No. : Criminal Revision Appeal Nos. 194 and 2641 of 1997

Appellant : P.V. Narasimharao

Respondent : State

Advocate for Pet/Ap. : P.N. Lekhi,; Vijay Chaudhary and; Ravindra Kumar, Advs

Judgement :

Mohd. Shamim, J.

(1) This is an application by Rashtriya Mukti Morcha through their President for permission to intervene in the present proceedings preferred by Shri P.V.Narasimha Rao for quashment and setting aside the order dated May 6, 1997 passed by the trial court.

(2) Learned counsel for the petitioner Mr. P.N.Lekhi, Senior Advocate, has contended that initially a complaint was lodged with the Central Bureau of Investigation by the applicant showing the commission of a cognizable offence, yet no case was registered against the petitioner and other co-accused persons. It was only when a direction was given by a Division Bench of this Court as per the request of the applicant in Civil Writ Petition No. 1718/96 on February 26, 1996 that the Central Bureau of Investigation registered a case against the Members of Parliament belonging to Jharkhand Mukti Morcha. Learned counsel thus contends that the Central Bureau of Investigation was very much reluctant to register an Fir against the petitioner and other co-accused persons and it was on account of the untiring efforts of the applicant i.e. Rashtriya Mukti Morcha through their President that an Fir was ordered to be registered against the petitioner herein and others as per the directions of a Division Bench of this Court, alluded to above. The Central Bureau of Investigation are conducting the case in a half-hearted manner and the public prosecutor has abdicated his functions. He thus wants that the applicant be permitted to intervene in the present case to oppose the quashment of the impugned order passed by the trial court against the petitioner.

(3) I have heard the learned counsel for the petitioner at a considerable length and have given my anxious thought to the arguments advanced by him.

(4) The learned counsel has failed to show me any provision for impleadment of a party in criminal proceedings. There is no provision in the Code of Criminal Procedure analogous to Order I Rule 10 of the Code of Civil Procedure. Thus, it was in the above circumstances that even the present petition was moved under Section 482 Cr.P.C. Section 482 Criminal Procedure Code deals with inherent powers of the High Court. To my mind, the said Section would be applicable only in those discerning few cases where there is no provision to give effect to the orders passed by this Court or to prevent the abuse of the process of the Court or otherwise to secure the ends of justice. However, when there is a specific provision in the Code of Criminal Procedure in that eventuality the provisions of Section 482 Cr.P.C. cannot be made applicable.

(5) Section 301 Cr.P.C. deals with the appearance by public prosecutors. Since the above Section is very much relevant and material for the purposes of deciding the present controversy raised by the learned counsel for the applicant, it would be just and proper to examine the provisions of the said Section to clarify the situation. It is in the following words:

'(1)The Public Prosecutor or Assistant Public Prosecutor in charge of a case may appear and plead without any written authority before any Court in which that case is under inquiry, trial or appeal.

(2)If in any such case any private person instructs a pleader to prosecute any person in any Court, the Public Prosecutor or Assistant Public Prosecutor in charge of the case shall conduct the prosecution, and the pleader so instructed shall act therein under the directions of the Public Prosecutor or Assistant Public Prosecutor, and may, with the permission of the Court, submit written arguments after the evidence is closed in the case'.

(6) It is crystal clear from the relevant provision of the law cited above that a private party has got no role to play in a case instituted by the State. In all such cases the prosecution is launched by the State and a private party has got nothing to do in such cases. Admittedly, the proceedings in the instant case have been launched by the State through the Central Bureau of Investigation. It is true as contended by the learned counsel for the applicant that the Rashtriya Mukti Morcha was the complainant before the Division Bench in the case alluded to above. It is also true that they succeeded before the Division Bench and a direction was issued for the registration of the case, to the Central Bureau of Investigation. However, the role which the applicant assumed came to an end thereafter. Hence the applicant cannot be allowed to intervene in the instant case.

(7) A matter very much akin to the matter in hand came up before the Punjab & Haryana High Court as reported in *Kuldip Singh v. State of Haryana*, 1980 CrL.J. 1159' Sub section(1) of Section 301, deals with the Public Prosecutor and the Assistant Public Prosecutor in charge of a case. Under sub-section (2), a private person can instruct a pleader to prosecute any person in any Court, but such pleader can only act under the directions of the Public Prosecutor or the Assistant

Public Prosecutor. The Court comes in the picture only if the pleader so engaged wishes to submit written arguments after the evidence is closed. It is thus clear that the Court is unconcerned in the matter of the engagement of a pleader by a private party and of the conduct of the trial by such pleader under the direction of the public Prosecutor. This matter is exclusively between the party, pleader and the Public Prosecutor..... The application filed by the petitioner to the learned Additional Sessions Judge for permission to allow his counsel to conduct the trial or to participate therein was misplaced.

(8) I am also tempted here to cite a few lines from the observations of their Lordships of the Hon'ble Supreme Court as reported in *Thakur Ram & Others v. The State of Bihar*, : 1966 CriLJ700 ' In a case which has proceeded on a police report a private party has no locus standi. No doubt, the terms of S. 435, are very wide and he can even take up the matter suo motu. The criminal law is not, however, to be used as an instrument of wrecking private vengeance by an aggrieved party against the person who, according to that party, had caused injury to it. Barring a few exceptions, in criminal matters the party who is treated as aggrieved party is the State which is the custodian of the social interests of the community at large and so it is for the State to take all the steps necessary for bringing the person who has acted against the social interests of the community to book....'

(9) To the same effect are the observations of a Single Judge of this Court as reported in *Anil Kumar Malik v. Delhi Administration, Delhi*, 1993 Jcc 329, and in *Parveen Malhotra v. State*, : 41(1990)DLT418 .

(10) Learned counsel for the applicant has further contended that he was permitted to intervene by the learned Single Judge (Hon'ble Mr. Justice S.N.Mahajan) at the time of hearing of the bail application. A close scrutiny of the said judgment and order dated December 6, 1996 reveals that the applicant was permitted only to make a representation. The request for intervention was, however, declined. (Concluding lines of the order).

(11) The next contention of the applicant that the Central Bureau of Investigation are conducting the proceedings in a half-hearted manner and are not taking the

interest which it deserves, does not appear to be borne out from the record. Admittedly, the impugned order dated May 6, 1997 went against the petitioner and other co-accused persons and that is why the petitioner is before Court.

(12) Considering the above facts and circumstances I do not see any force in the present application. It is hereby dismissed.

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