Karamjeet Singh Vs Union of India

Writ Petition (Criminal) No. 585 of 1992

Court: Supreme Court of India

Date of Decision: Oct. 8, 1992

Acts Referred:
Constitution of India, 1950 â€" Article 32

Citation: AIR 1993 SC 284 : AIR 1992 SC 284 : (1993) CriLJ 46 : (1992) 5 JT 598 : (1992) 2 SCALE 753 : (1992) 4 SCC 666 : (1992) 1 SCR 898 Supp

Hon'ble Judges: K. Ramaswamy, J; A. M. Ahmadii, J

Bench: Division Bench

Advocate: B.L. Wadehra, Ashok Kumar Sharma and M.S. Buttalia, for the Appellant; Altaf Ahmed, Addl. Solicitor General, A. Subhashini, A.S. Bhasme and S.M. Jadhav, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. The petitioner, Karamjeet Singh, who claims to be the "next friend" of the convicts Sukhdev Singh @ Sukha and Harjinder Singh @ Jinda by

reason of his having participated along with them in Kar Seva for the restoration of Harminder Sahib, in Golden Temple. Amritsar, has filed this

petition under Article 32 of the Constitution questioning the legality and validity of their conviction and sentence by the Designated Court, Pune and

the confirmation thereof by this Court by its judgment rendered on July 15, 1992, See : 291833 . Though it is stated in the petition that it is being

filed "on behalf of the aforesaid two convicts it is clarified in paragraph 4 thereof that the said convicts "have given oral and written instructions that

none of their relations should file any petition seeking justice or mercy for them". It is, therefore, clear that this petition is not filed on instructions

given by the two convicts or at their behest. The petition is strongly opposed by the learned Additional Solicitor General on behalf of the

respondent.

2. The question which falls for determination in this petition is identical to the one which had arisen for consideration by this Court in the case of

283150 , namely, whether a third party who is a total stranger to the prosecution culminating in the conviction of the accused, has any ''locus

standi'' to challenge the conviction and sentence awarded to them, by invoking Article 32 of the Constitution? This Court after considering the

relevant provisions of the CrPC, 1973 and Order XXI of the Supreme Court Rules came to the conclusion that such a petition by a third party

stranger is not maintainable. In taking this view this Court relied on the observations in 279525 288239 and in particular the observations in

286881 to the following effect:

Even if there are million questions of law to be deeply gone into and examined in a criminal case of this nature registered against specified accused

persons, it is for them and them alone to raise all such questions and challenge the proceedings initiated against them at the appropriate time before

the proper forum and not for third parties under the garb of public interest litigants.

(Emphasis supplied)

On this line of reasoning we in that case observed as under:

The two convicts could, if so minded, have raised the contention in the earlier proceedings but a third party, a total stranger to the trial commenced

against the two convicts, cannot be permitted to question the correctness of the conviction recorded against them. If that were permitted any and

every person could challenge convictions recorded day in and day out by courts even if the persons convicted do not desire to do so and are

inclined to acquiesce in the decision.

We, therefore, took the view that neither the provisions of the CrPC, 1973 nor any other statute permitted a third party stranger to question the

correctness of the conviction and sentence imposed by the Court after a regular trial.

3. Learned Counsel for the petitioner contended that the petitioner had filed this petition as the next friend of the two convicts who were under a

legal disability due to their intense obsession that the person who was responsible for desecrating the Harminder Sahib cannot be allowed to

survive and has no right to live being guilty of such a high act of sacrilege against divinity. He submitted that the said obsession led the two convicts

to believe that the perpetrator of the sacrilege against divinity was the Government of the day and justice could not be expected from it and hence

they would themselves have to mete out the ''punishment'' to the said authorities responsible for the demolition of the Akaal Takht. He submitted

that the two convicts were under such legal disability and hence the petitioner, as their next friend, was entitled to move this petition under Article

32 of the Constitution. In support of the contention that the petitioner was the next friend of the two convicts reliance was placed at the hearing on

a letter purported to have been written on March 30, 1992 by one of the convicts Harjinder Singh @ Jinda to Balwinder Singh wherein a

reference was made to the petitioner. We assume that the petitioner is a friend of the two convicts and had brushed shoulders with them during

Kar Seva at Harminder Sahib. Learned counsel, therefore, invited our attention to the observations in paragraph 7 of the judgment in Simranjit

Singh Mann"s case wherein we observed:

Ordinarily, the aggrieved party which is affected by any order has the right to seek redress by questioning the legality, validity or correctness of the

order, unless such party is a minor, an insane person or is suffering from any other disability which the law recognises as sufficient to permit another

person, e.g. next friend, to move the Court on his behalf. If a guardian or a next friend initiates proceedings for and on behalf of such a disabled

aggrieved party, it is in effect proceedings initiated by the party aggrieved and not by a total stranger who has no direct personal stake in the

outcome thereof.

We are afraid these observation do not permit a mere friend like the petitioner to initiate the proceedings of the present nature under Article 32 of

the Constitution. The observations relied upon relate to a minor or an insane or one who is suffering from any other disability which the law

recognises as sufficient to permit another person, e.g. next friend, to move the Court on his behalf; for example see : Sections 320(4a), 330(2)

read with Section 335(1)(b) and 339 of the CrPC. Admittedly, it is not the case of the petitioner that the two convicts are minors or insane

persons but argued the learned Counsel that since they were suffering from an acute obsession such obsession amounts to a legal disability which

permits the next friend to initiate proceedings under Article 32 of the Constitution. We do not think that such a contention is tenable. The disability

must be one which the law recognises. A mere obsession based on religious belief or any other personal philosophy cannot be regarded as a legal

disability of the type recognised by the CrPC or any other law which would permit initiation of proceedings by a third party, be he a friend. It must

be remembered that the repercussions of permitting such a third party to challenge the findings of the Court can be serious, e.g. in the instant case

itself the co-accused who have been acquitted by the Designated Court and whose acquittal has been confirmed by this Court would run the risk

of a fresh trial and a possible conviction. It is, therefore, hazardous to allow a third party to initiate proceedings under Article 32 challenging the

order passed by the Designated Court and confirmed by this Court on the mere ground that the convicts had acted under such an obsession. Such

a submission, urged the learned Additional Solicitor General, is fraught with grave consequences and would, we agree, shake the very foundation

of the rule of law on which a civilised society is based if the aggrieved person is allowed to take the law in his own hands and later plead disability

on the ground that his action emanated from an acute obsession that his victim had by his action forfeited the right to live and deserved to be

punished with death. Such a submission cannot be countenanced.

4. Lastly it was submitted that this case differed from the earlier case because the petitioner has come as a next friend. He also submitted that the

sentiments of the entire Sikh community expressed through their leaders of all hues should be taken note of by the Court. We appreciate their

sentiments but that cannot alter the legal position. Besides, as a matter of record we may also state that even Simranjit Singh Mann had in the

earlier petition by his affidavit dated August 25, 1992 contended that he was filing the writ petition as the next friend of the condemned prisoners.

That petition was dismissed for want of ''locus standi'' and we see no distinguishing feature in the present petition to take a different view.

5. In the result, we hold that the petitioner has no ''locus standi'' to move this Court under Article 32 of the Constitution for challenging the

conviction and sentence awarded to the two convicts by this Court''s order of July 15, 1992. The petition is, therefore, summarily rejected.