

Narendra Luther Vs State of Andhra Pradesh and Others

Court: Andhra Pradesh High Court

Date of Decision: Oct. 20, 1997

Acts Referred: Hyderabad City Police Act, 1348 â€” Section 21, 21(1)

Citation: (1997) 6 ALT 504

Hon'ble Judges: P.S. Mishra, C.J; P. Ramakrishnam Raju, J

Bench: Division Bench

Advocate: I. Venkatanarayana, for the Appellant; Government Pleader for Home for Respondent Nos. 1 and 3 and C.V. Ramulu, for the Respondent

Judgement

P. Ramakrishnam Raju, J.

The former Chief Secretary of the State is the appellant. He is a resident of Road No. 12, Banjara Hills,

Hyderabad, and is leading a peaceful retired life evincing interest in literary and cultural pursuits. Himself and his neighbours were being disturbed

round the clock with loud noise emanating from the foot of Banjara Hills area within the jurisdiction of Humayun Nagar Police Station. On his

complaint, one of the Police Officers from the said Police Station visited him to ascertain where the noise was coming from and thereafter the noise

stopped for some time. Again after a few days, noise started in a very loud manner so as to disturb the entire neighbourhood. On 12-10-1995 the

petitioner contacted Humayun Nagar Police and complained to the Sub-Inspector of Police, who is the third respondent. But, as there was no

relief, the petitioner again contacted the third respondent in the afternoon and the third respondent, instead of taking action, quipped that the noise

was coming from a mosque and he could do nothing about it. When the petitioner told him that such noises have been stopped earlier and that he

should ensure that the volume was kept within the limits as prescribed under the City Police Act, the third respondent raised his voice and asked

him to make a complaint in writing and asked what he wants. The petitioner felt that the third respondent being the responsible Police Officer was

not only highly discourteous but disregarded the genuine complaint and thus failed to discharge his statutory duties as Police Officer. The petitioner

then kept quiet, but on the next day, he wrote a letter to the Commissioner of Police brining to his notice the rude behaviour and inaction of the

third respondent and requested him politely to enquire into the matter and take appropriate action against him. The second respondent did not even

care to reply or acknowledge the said letter. Waiting for a period of three months, the petitioner again on 29-1-1996 reminded the second

respondent about his earlier letter and requested him to take action. The petitioner happened to meet the second respondent at a function and there

again he reminded him of his letters and the second respondent told him that he was taking action. But, the second respondent did not bother to

acknowledge his letters nor taken any action against the third respondent. As the efforts of the petitioner to move the second respondent, who is a

Senior Police Officer and Head of the City Police, failed, he was constrained to address a letter on 7-3-1996 to the Chief Secretary of

Government of Andhra Pradesh and requested him to use his good offices to move the second respondent to respond. The Chief Secretary

promptly on 12-3-1996 expressed his regret for the attitude of the Commissioner of Police and assured that he would look into the matter.

However, the second respondent, after a lapse of six months, presumably on instructions from the Chief Secretary wrote a D.O. letter to the

petitioner on 2-4-1996 enclosing a report of third respondent. The allegation in the report that the third respondent has taken immediate action on

the first complaint of the petitioner on 12-10-1995 is far from truth and had it been so, there would not have been any further occasion for the

petitioner to complain over and again. Therefore, the petitioner filed writ petition for redressal of his grievance for the insult meted out to him by the

inefficient, rude and discourteous subordinate Police Officer hoping for a better system with full of human touch.

2. The third respondent in his counter-affidavit denied the allegation of discourteous behaviour on his part. He also denied that he had committed

any act of disrespect or misconduct against the petitioner. In fact, on receipt of complaint through telephone on 12-10-1995 from the petitioner, he

rushed to the spot with available out-post personnel and checked the nuisance in the entire First Lancer and Masab Tank areas for 45 minutes.

But, no noise was heard at that time. Hence, he left instructions to out-post personnel to patrol the areas vigorously and bring the violators to the

Police Station for further action. At 12 hours again the third respondent received a phone call from the petitioner that no action was taken on his

complaint and the third respondent explained to him about his visit and that they could not notice any voice. However, he instructed the out-post

staff to keep a watch on the problem. In fact he had also instructed the Head Constable 3507 to verify about the sound. The complaint of the

petitioner has been entered in out- post General Diary of Humayun Nagar Police Station and accordingly relevant entries were made by out-post

Head Constable 3507 in the General Diary. The allegation of the third respondent on the contrary is that the petitioner was found in an irritating

mood and threatened the third respondent saying that he would report against him to the Director General of Police and cut off the telephone while

they were talking at 1200 hours on 12-10-1995. The second respondent in his counter - affidavit also states that he received letter dated 13-10-

1995 and 29-1-1996 addressed by the petitioner. He called for the explanation of the third respondent after receipt of first letter dated 13-10-

1995. The third respondent submitted his explanation and having been satisfied with the same, he sent a D.O. letter dated 2-4-1996 together with

the explanation. He denied that no action was initiated by him. It is denied that there is any misconduct or negligence of duties on the part of the

third respondent or himself.

3. On the above facts, the learned Single Judge who disposed of the writ petition, felt that the grievance of the petitioner appears to be a reaction

of a highly placed sensitive person being a retired Chief Secretary and he might have been offended by the loud voice of the third respondent. The

second respondent has called for the explanation of the third respondent and he was satisfied with the same and as such, no motive could be

attributed to the second respondent in coming to that conclusion. The learned Judge concluded that a writ of mandamus would issue only when

there is a statutory violation or violation of principles of natural justice in performing the statutory duty by any authority and as such, how the police

should behave with the citizens is not a matter for the Court to determine in exercise of its jurisdiction under Article 226 of the Constitution. As the

writ petition was dismissed taking the above view, this writ appeal by the petitioner.

4. No doubt, u/s 21 of the Hyderabad City Police Act, the Commissioner of Police of Hyderabad City may from time to time make rules not

inconsistent with the Act in respect and pertaining to the using of loud- speakers in any public place or places of public entertainment after

obtaining sanction of the Government before enforcing the Rules. Therefore, there is a statutory obligation cast on the Commissioner of Police to

abate the nuisance or sound pollution by making suitable rules. In fact, notification was issued by the Head of Office of the City Police, Hyderabad,

as early as 26 Khurdad 1345 Fasli prohibiting playing of music at any time on a public road or a public place without obtaining the licence from the

Commissioner of City Police. Of course, it goes without saying that it is always open to the Commissioner to grant or refuse such requests for

permission for playing music or using loudspeakers in his discretion, which discretion has to be exercised in a judicious way. It is equally open to

him while granting such permission, to impose such restrictions as may be deemed necessary in the public interest and public order. It need not be

overemphasised that regulation of sound pollution in the residential localities is a matter which requires serious attention of the Commissioner of

Police and if such sound pollution exceeds normal levels, the same has to be brought down sternly without losing time.

5. In the instant case, the complaint of the petitioner is that he had a raw deal at the hands of respondents 2 and 3 when he made a complaint about

the loud noise caused in the locality round the clock. The respondents 2 and 3 have tried to justify in their counter-affidavits that they have taken

proper action and there is no let up in taking suitable action. No doubt, on the factual matrix as placed before the Court, writ of mandamus in

stricto sensu may not issue as there is no infringement of a statutory right or violation of statutory duty complained of by the petitioner against the

respondents. Nonetheless, the statutory authorities serving public have to exercise high degree of restraint and exhibit utmost courtesy and

politeness while dealing with public when grievances are genuine. Their conduct should be emulated and praiseworthy ensuring immediate relief to

the public who approach them, with genuine grievance.

6. The controversy which triggered off two years ago has become stale and sterile. Therefore, we do not feel justified to examine the grievance in

detail at this length of time. Suffice, if a direction is issued to the respondents to examine any complaint made by the petitioner, if required to be

examined, shall be examined in accordance with law and prompt action taken expeditiously. With the above observation, the writ appeal is

disposed of.