

J. Shiva Shankar Vs Deputy Superintendent of Police and Others

Court: Andhra Pradesh High Court

Date of Decision: March 6, 2002

Acts Referred: Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 " Section 3(1)

Citation: (2002) 2 ALT 295 : (2002) CriLJ 3168

Hon'ble Judges: AR. Lakshmanan, C.J; I. Venkatanarayana, J

Bench: Division Bench

Advocate: M. Prasad Rao, for the Appellant; Govt. Pleader for Home for Respondent Nos. 1 and 2 and Janardhan Reddy, for the Respondent

Judgement

AR. Lakshmanan, C.J.

By the consent of learned Counsel for the parties, both the Writ Appeal and the Writ Petition are taken up for

hearing on merit and disposed of by this judgment.

2. The Writ Petition is filed seeking a Writ of Mandamus declaring the action of the Sub inspector of Police, Navipet, Nizamabad District in

registering the Crime in F.I.R.No. 126 of 2001 on the complaint filed by the 3rd respondent P. Mohan dated 21-11-2001 as illegal, arbitrary and

contrary to Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and for a consequential direction to

set aside the F.I.R.

3. The Writ Petition was admitted by this Court on 24-12-2001 and an interim order was also granted on the same day. Later, by order dated

125th February, 2002, a learned Single Judge of this Court, vacated the interim order. The said order reads thus:

The third respondent along with some others filed a complaint before respondents 1 and 2 under Sections. 3(1)(x) of Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act, 1989. The same was registered as FIR No. 126 of 2001 at P.S. Navipet. The Writ Petition is

filed seeking a declaration that registration of FIR is bad and illegal. Prima facie, this Court is of the opinion that the Writ Petition is not

maintainable. An offence under the said Act is a cognizable offence and respondents 1 and 2 are bound to register the FIR and proceed with the

investigation. In view of this, the interim order dated 24-12-2002 in W.P.M.P. No. 33093 of 2001 is vacated.

4. Against the said order, the present appeal has been filed. In our opinion, on the facts and circumstances of this case, the Writ Petition is not

maintainable. The Supreme Court has held in *Shri Mahavir Prashad Gupta and Another Vs. State of National Capital Territory of Delhi* and

Others, that the power of quashing criminal proceedings must be exercised very sparingly and with circumspection and that too in the rarest of

rare cases such as where the complaint itself does not disclose any offence. In the instant case, since the complaint has already been lodged and

the same has been registered by the Sub-Inspector of Police Navipet, the prayer made in the Writ Petition cannot be granted.

5. The learned Counsel for the appellant submits that an enquiry was conducted by the Revenue Divisional Officer and the report submitted by the

RDO is in favour of the petitioner-appellant and, therefore, the complainant cannot be permitted to proceed further with the complaint.

6. We are unable to countenance with the said submission. It is stated that the competent Court having jurisdiction to try the case is the learned

Additional Sessions Judge, Nizamabad. It would be open to the appellant herein to place before the learned Judge all the materials available to him

in support of his case and prove his innocence. We, therefore, direct the appellant herein to appear before the learned Sessions Judge on 14th

March, 2002. The learned Additional Sessions Judge, Nizamabad District shall take up the case and dispose of the same on merits after affording

opportunity to both the parties to prove their respective case. Till the case is disposed of finally by the learned Judge, the appellant shall not be

arrested.

7. The Appeal and the Writ Petition are disposed of accordingly.