

APHC010496832024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI

Bench Sr.No:-9
[3483]



WP(PIL) NO: 187 of 2024

Pola Vijaya Babu

...Petitioner

Vs.

The State Of Andhra Pradesh and Others

...Respondent(s)

Advocate for Petitioner:

Mr. S. Sriram, Senior Counsel,
appearing vice Mr.Papudippu Sashidar
Reddy

Advocate(s) for Respondent(s):

GP FOR HOME, GP FOR GENERAL
ADMINISTRATION

**CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR
SRI JUSTICE RAVI CHEEMALAPATI**

DATE : 13th November 2024

PER DHIRAJ SINGH THAKUR, CJ :

The present petition has been filed purportedly in public interest by a journalist, with the view to highlight the alleged indiscriminate arrest made by the police authorities, affecting the liberty of social media activists in general.

2. The petition alleges that the State machinery was being misused by the police authorities and therefore the petitioner seeks appropriate orders to

restrain the arrests of social media activists, especially those who are not aligned to the ecosystem of the present ruling party.

3. Counsel for the petitioner, Mr. Sriram, would submit that the police authorities have been making arrests indiscriminately for *mala fide* reasons only because they chose to criticize the functioning of the Government and their officers with a view to intimidate those who do not support the current party in power.

4. According to Mr. S. Sriram, there is a definite pattern adopted by the police authorities in trying to silence the criticism against the Government and false cases have been foisted on defenceless victims. It is stated that the persons who have been incarcerated, arrested or against whom criminal cases have been registered have in fact resorted to the legal remedies before the competent fora. However, what is stated to be highlighted is that an inquiry is warranted into the functioning of the police authorities and further that compensation be paid to those who have suffered at the hands of the State.

5. The action of the State and the police authorities is stated to be illegal with a view to curtail the freedom of expression of journalists, which is otherwise protected in terms of Article 19(1)(a) of the Constitution of India.

6. We have heard counsel appearing for the petitioner.

7. From the record, it can be seen that certain FIRs have been registered against some people:

a. FIR No. 75 of 2024, registered with Tirumala Town Police Station is registered for offences under Sections 196, 298, 299, 353 read with Section 49 of the BNS.

b. FIR No. 202 of 2024, registered with Tadikonda Police Station is registered for offences under Section 504 of the IPC, read with Sections 294, 153A, 505 and Section 67 of the IT Act.

c. FIR No. 256 of 2024, registered with Vinukonda Police Station has been registered under Sections 196, 352 and 353 of the BNS, read with Section 67 of the IT Act.

d. Other FIRs bearing numbers 500 of 2024 in Tadeipalli Police Station, 403 of 2024 in Nandigama Police Station, 165 of 2024 in Kadiri Rural Police Station and 277 of 2024 in Markapur Police Station, which have been registered on account of offences covered under various sections of the IPC, BNS and the IT Act.

8. The entire emphasis of the learned counsel for the petitioner is that by virtue of the registration of the FIRs, the social media activists and journalists are being unfairly targeted by the present ruling dispensation which

wants to scuttle the voice of dissent. And it is in those circumstances that the petitioner claiming himself to be a journalist is seeking to espouse the cause of his community.

9. While the petitioner may proclaim himself to be a protector of the rights of his fraternity, that is journalists in general, some of whom may also be present on the social media, yet we have to see as to whether on the basis of facts contained in the petition and those urged before us during the course of arguments by the learned Senior Counsel, warrants exercise of our jurisdiction under Article 226 of the Constitution of India.

10. Public interest litigation was a concept which was innovated by the courts with the view to protect the fundamental and other rights of the people who are unable to fight for such rights on account of the existing social inequality, economic disadvantage or poverty. It was meant to protect those who are unable to fight for themselves, for example, bonded labourers, child labourers and labour in the unorganized sector, and prisoners.

11. Notwithstanding the above, Courts through various pronouncements have repeatedly emphasized the need to be cautious of the fact that litigation in the name of public interest is not permitted to be misused for purposes other than for which it was envisaged and conceived. It is in that context that

the Supreme Court in ***Jaipur Shahir Hindu Vikas Samithi vs. State of Rajasthan***, (2014) 5 SCC 530, stated thus:

“49. The concept of public interest litigation is a phenomenon which is evolved to bring justice to the reach of people who are handicapped by ignorance, indigence, illiteracy and other downtrodden people. Through the public interest litigation, the cause of several people who are not able to approach the court is espoused. In the guise of public interest litigation, we are coming across several cases where it is exploited for the benefit of certain individuals. The courts have to be very cautious and careful while entertaining public interest litigation. The judiciary should deal with the misuse of public interest litigation with iron hand. If the public interest litigation is permitted to be misused the very purpose for which it is conceived, namely, to come to the rescue of the poor and downtrodden will be defeated. The courts should discourage the unjustified litigants at the initial stage itself and the person who misuses the forum should be made accountable for it. In the realm of public interest litigation, the courts while protecting the larger public interest involved, should at the same time have to look at the effective way in which the relief can be granted to the people whose rights are adversely affected or are at stake. When their interest can be protected and the controversy or the dispute can be adjudicated by a mechanism created under a particular statute, the parties should be relegated to the appropriate forum instead of entertaining the writ petition filed as public interest litigation.”

Further, a Division Bench of this Court in WP(PIL) No. 190 of 2023 held:

6.1. In ***Janata Dal v. H.S. Chowdhary***¹, the Apex Court had emphasized that it was only a person acting bona fide and having sufficient interest in the proceeding of PIL alone would have a locus standi and could approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or

¹ (1992) 4 SCC 305

political motive or any oblique consideration who could maintain such a petition. It was further held that a vexatious petition under the colour of PIL brought before the court for vindicating any personal grievance, deserves to be rejected at the threshold.

6.2. In ***Dattaraj Nathuji Thaware v. State of Maharashtra***², it is held as under:

"12. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta.

14. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike balance between two conflicting interests; (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the Court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature. The Court has to act ruthlessly while dealing with imposters and busybodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the public or even of their own to protect."

² 2005 (1) SCC 590

12. When we test the facts of the present case on the touchstone of the legal principles discussed hereinabove, it can be seen that the present petition has been filed to espouse cause not of persons who are downtrodden, or belong to an economically weaker section of the society, who are incapable of approaching the Courts for protecting their rights or challenging the action of the State, rather, the petitioner seeks to espouse the cause of a community of social media activists as they are called, who cannot, by any stretch of imagination, be said to be either marginalised or suffer an economic handicap, and cannot take resort to the remedies which are otherwise available to them in law.

13. A social media activist is one who can express his views on the social media, and that can only be done through an electronic device like a computer or an advanced phone. A critic of the Government, who expresses himself or herself on the social media, is a person who is fully aware of his rights and, therefore, a social media activist is a person, who is well informed and aware of what goes on in the society and has the capacity to criticize the acts of omission or commission of those in power or authority.

14. If such be the case, then we fail to understand as to how a public interest litigation would at all be maintainable in so far as this section of the society is concerned, who is well informed, who does not suffer any handicap on account of poverty or penury, and is well capable of challenging the action

of the State if they feel that the same is not legally appropriate or was not warranted in law.

15. At this stage, we need to emphasize that there is certainly a distinction between a critic of the Government who expresses himself or herself on the social media and a social media bully, who uses the platform to bully an individual, an officer or a person in authority by spreading false information, maligning the character of a person or his family members by use of unparliamentary language which at times may be vulgar. The platform may also be used for spreading hatred amongst communities to bring about social unrest. The toxicity of such comments has a devastating effect on the law abiding citizens, who may suffer such a targeted attack as a well organized strategy.

16. Such persons using the social media platform cannot be said in the least to be social media activists. A social media platform does not give any immunity to a person from whatever is said in the social media which otherwise constitutes an offense in law. On the other hand, such elements need to be dealt with in accordance with law especially those who are available as 'guns for hire'.

17. In the present case, we can see that while cases have been registered against some people, they have taken resort to the appropriate remedies available in law as was fairly stated by Mr. S. Sriram.

18. On the basis of the material on record, we find that the present petition is misconceived, and appears to have been filed with political motives. The petition is, accordingly, dismissed with costs of Rs.50,000/- to be deposited with the A.P. State Legal Services Authority within one month, who shall utilise the same for the benefit of children, who are suffering from visual or hearing impairment.

Pending miscellaneous applications, if any, shall stand closed.

DHIRAJ SINGH THAKUR, CJ

RAVI CHEEMALAPATI, J

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**HON'BLE MR.JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE
&
HON'BLE MR. JUSTICE RAVI CHEEMALAPATI**

Writ Petition (PIL) No: 187of 2024

DATE : 13.11.2024

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