

**\*HIGH COURT OF ANDHRA PRADESH :: AMARAVATI**

**+WRIT PETITION No.1102 of 2016**

Between:

# P. Ramakrishna, S/o late Jaganmohan Rao

... Petitioner

And

\$ The State of Andhra Pradesh,  
Represented by its Principal Secretary,  
Home Department, A.P. Secretariat,  
Hyderabad and 6 others

.... Respondents

JUDGMENT PRONOUNCED ON **04.04.2024**

**THE HON'BLE DR.JUSTICE K. MANMADHA RAO**

1. Whether Reporters of Local newspapers may be allowed to see the Judgments?

- Yes -

2. Whether the copies of judgment may be marked to Law Reporters/Journals

- Yes -

3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?

- Yes -

---

**DR.JUSTICE K. MANMADHA RAO**

**\* THE HON'BLE DR.JUSTICE K. MANMADHA RAO**

**+WRIT PETITION No.29184 of 2013**

% 04.04.2024

# P. Ramakrishna, S/o late Jaganmohan Rao

... Petitioner

And

\$ The State of Andhra Pradesh,

Represented by its Principal Secretary,  
Home Department, A.P. Secretariat,  
Hyderabad and 6 others

.... Respondents

**! Counsel for the Petitioner :** Sri P. Kamalakar

**Counsel for Respondents:** G.P for Home  
G.P. for Forest

<Gist :

>Head Note:

? Cases referred:

1. (2020) 3 SCC 240

APHC010475242016



**IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)**

**[3310]**

THURSDAY ,THE FOURTH DAY OF APRIL  
TWO THOUSAND AND TWENTY FOUR

**PRESENT**

**THE HONOURABLE DR JUSTICE K MANMADHA RAO**

**WRIT PETITION NO: 1102/2016**

**Between:**

P.ramakrishna,

**...PETITIONER**

**AND**

The State Of Andhra Pradesh and Others

**...RESPONDENT(S)**

**Counsel for the Petitioner:**

1. P KAMLAKAR

**Counsel for the Respondent(S):**

1. 15528/GP FOR FORESTS (AP)
2. GP FOR HOME (AP)
3. 15548/GP FOR REVENUE (AP)
4. 15555/GP FOR MINES AND GEOLOGY (AP)
5. 15584/GP FOR FORESTS (TG)

**The Court made the following:**

**ORDER :**

This Writ Petition is filed to quash the proceedings in Cr.No.3 of 2016 of Prathipadu P.S., East Godavari District.

2. Brief facts of the case are that the 4<sup>th</sup> respondent herein approached the 3<sup>rd</sup> respondent and gave a written complaint stating that Thotapally Forest was notified as Reserve Forest under G.O.BP.No.289, dated 23.12.1937 which is

situated in Sy.No.1 of Chintaluru village of Prathipadu Mandal. It is stated that the petitioner Firm has obtained mining lease in Sy No.262 of Gajjanapudi village and alleged to have illegally excavated six lakh metric tones of laterite mineral by altering Forest Boundaries from the year 1997 to 2005 instead of mining in the allotted area. It is further stated that the District Collector, East Godavari and the District Forest Officer, Kakinada issued instructions to file a criminal case and on their instructions, a complaint was lodged and the same was registered as Crime No.3 of 2016 against the petitioner under Sections 447, 379 and 420 IPC. The contention of the petitioner is that he is innocent of the alleged offences with which he has been charged and is falsely implicated without there being any material to connect him with any of the alleged offences.

The main grievance of the petitioner is that initiation of criminal prosecution without issuing any notice and without calling for any explanation from the petitioner, after lapse of 10 years is illegal and arbitrary. It is stated that the 6<sup>th</sup> respondent lodged a complaint at the behest of the District Collector, who has submitted report to the Government while issuing G.O.Ms.No.119 stating that the area applied by the petitioner Firm do not fall in Reserve Forest area and the Survey number is registered in village accounts as "KONDA PORAMBOKE". There is an inordinate delay of 10 years in filing the complaint and absolutely there is no explanation in the complaint for filing of such an inordinate delay. Even though the petitioner was permitted to carry on quarry operations by the concerned authorities by following the procedure contemplated under law, without initiating any proceedings under the Forest Act for the alleged encroachment, launching of prosecution is arbitrary and illegal. Hence, the present writ petition.

This Court vide order dated 12.01.2016 while issuing Rule Nisi, has granted interim direction that the investigation in Crime No.3 of 2016 of Prathipadu Police

Station, East Godavari District, shall continue. However, the petitioner shall not be arrested in the meanwhile.

The 4<sup>th</sup> respondent has filed counter affidavit denying all the allegations made in the petition inter alia contended that before the issue of mining lease either the Parameswari Minerals represented by the petitioner or Revenue Department and Mining Department officials had not taken up any joining inspection of the area proposed for mining lease with the Forest Department and also not obtained any clearance from the Forest Department. During the physical verification of the leased area as well as the adjoining forest area it is clearly found that the lessee did not excavate any mining material in the non forest area which was allotted to him by the Revenue and Mining Departments, but intentionally encroached into Reserve forest by altering the boundaries and excavated the mineral from the Thotapalli Reserve Forest area. It is further stated that the petitioner had not taken up any mining activity in the allotted area and intentionally carried out mining in the adjoining Thotapalli Reserve Forest area. Further the Parameswari Mineral was represented by mining partner Sri P.Ramakrishna in all its official proceedings on behalf of the company during the lease period. It is also submitted that during the recently enquiry only it is noticed that the illegal mining was carried out in the Forest area hence the delay occurred.

Heard Sri P. Kamalakar, learned counsel appearing for the petitioner; learned Assistant Government Pleader for Home and learned Assistant Government Pleader for Forest appearing for the respondents.

On hearing, learned counsel for the petitioner while reiterating the contents made in the petition submits that during the period from 1997 to 2005 absolutely there was no allegation against the petitioner whatsoever including the payment of royalty and other taxes to the Government. Every tone of mineral was excavated

and transported by following the procedure prescribed under law. He further submits that, without issuing any notice and without calling for any explanation from the petitioner, initiation of criminal prosecution, after lapse of 10 years is highly illegal and arbitrary. He further submits that there is an inordinate delay of 10 years in filing the complaint and absolutely there is no explanation in the complaint for filing the complaint with such an inordinate delay. Learned counsel mainly contended that the criminal proceedings were initiated against the Managing Partner of the Firm without showing the Firm as an accused. The entire business was done by the petitioner Firm and there cannot be any vicarious liability against the partner of the Firm under penal law and as such the FIR is not maintainable under law. He further submits that the petitioner was permitted to carry on quarry operations by the concerned authorities by following the procedure contemplated under law.

To support his contentions, learned counsel for the petitioner has placed reliance on a decision of Hon'ble Supreme Court reported in **Sushil Sethi and another versus State of Arunachal Pradesh and others**<sup>1</sup>, wherein it was held that :

It is also required to be noted that the main allegations can be said to be against the company. The company has not been made a party. The allegations are restricted to the Managing Director and the Director of the company respectively. There are no specific allegations against the Managing Director or even the Director. There are no allegations to constitute the vicarious liability. In the case of [Maksud Saiyed v. State of Gujarat](#) (2008) 5 SCC 668, it is observed and held by this Court that the penal code does not contain any provision for attaching vicarious liability on the part of the Managing Director or the Directors of the company when the accused is the company. It is further observed and held that the vicarious liability of the Managing Director and Director would arise provided any provision exists in that behalf in the statute. It is further observed that statute indisputably must contain provision fixing such vicarious liabilities. It is further observed that even for the said purpose, it is obligatory on the part of the complainant to make requisite

---

<sup>1</sup> (2020) 3 Supreme Court Cases 240

allegations which would attract the provisions constituting vicarious liability. In the present case, there are no such specific allegations against the appellants being Managing Director or the Director of the company respectively. Under the circumstances also, the impugned criminal proceedings are required to be quashed and set aside.

Per contra, learned Assistant Government Pleader while denying the contents made by the petitioner contended that M/s Parameswari Minerals represented by the petitioner herein permitted to carry out mining in S.No.262/1 of Gajjanapudi Village of Prathipadu Mandal, but they had illegally trespassed into Reserved forest and removed forest produce i.e., Laterite mineral from Thotapally Reserve Forest for which a forest offence case was already booked against the Parameswari Minerals represented by P.Ramakrishna vide Preliminary Offence Reprot (POR) No.17 dated 23.12.2015 under provisions of AP/Forest Act 1967 and the action is under progress. Further the firm had excavated laterite mineral from Reserve Forest instead of allotted area in a preplanned manner with criminal intention and stolen the Government Property. Therefore a complaint was lodged against the firm represented by the petitioner for initiation of suitable criminal action.

As seen from the material on record,

contended that in pursuance of the registration of the crime, there is threat of arrest by the police. Earlier the petitioner was filed WP No.911 of 2016 before this



