



**IN THE HIGH COURT OF ANDHRA PRADESH AT
AMARAVATI
(Ordinary Original Civil Jurisdiction)
WEDNESDAY, THE NINETEENTH DAY OF MAY,
TWO THOUSAND AND TWENTY ONE**

**Coram: HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR
AND
HONOURABLE SMT JUSTICE LALITHA KANNEGANTI**

TAKEN UP W.P. No. 10152 of 2021

In Re: Letter dated 15-5-2021 addressed by Sri B.Adinarayana Rao, Senior Advocate, alleging indiscriminate beating of Sri Kanumuri Raghu Rama Krishnam Raju, Member of Parliament, by CID police, Mangalagiri, Guntur District.

AND

1. The State of Andhra Pradesh, Rep. by Principal Secretary, Home Department, AP Secretariat, Velagapudi, Amaravathi, Guntur District, Andhra Pradesh.
2. The Director-General of Police, Mangalagiri, Guntur District, Andhra Pradesh.
3. The Additional Director General of Police (CID), DGP Office, Mangalagiri, Guntur District, Andhra Pradesh.
4. Station House Officer, CID Police Station, Mangalagiri, Guntur District, Andhra Pradesh.

... Respondents

Counsel for the Petitioner: Sri B.Adinarayana Rao, Senior Advocate

Counsel for the Respondents: Additional Advocate General

ORAL INTERIM ORDER: (per the Hon'ble Smt. Justice Lalitha Kanneganti)

The present writ petition was taken up by this Court by way of House Motion, based on a letter addressed by Sri B.Adinarayana Rao, learned Senior Counsel on 15.05.2021 at 5.28 p.m. The said letter reads thus:

B.Adinarayana Rao
Senior Advocate

Date: 15-05-2021
Time: 05.28 PM

To
The Hon'ble Chief Justice/
Hon'ble Vacation Judge
High Court of Andhra Pradesh
Amaravati.

Sir,

Sub: Request for oral hearing without filing any papers in a *Habeas Corpus* Writ Petition to be convened immediately.

In Cr.No.12/2021 on the file of the CID Police Station, Mangalagiri, Guntur District, Andhra Pradesh, the police have arrested the 1st accused by name Sri Kanumuri Raghurama Krishnam Raju at Hyderabad on 14.05.2021 at 4.00 p.m. and he was immediately brought to the Regional Office, CID Police, Guntur and kept in lockup without allowing anybody.

On his behalf Criminal Petition No.2998 of 2021 was filed for bail before this Hon'ble Court and the same was dismissed by Justice Suresh Reddy directing the petitioner to move the Sessions Judge for bail. In the meanwhile the police produced the accused before the 6th Addl. Metropolitan Magistrate, Guntur, seeking judicial remand.

Then it was noticed that the accused had been badly beaten by the police during custody and he is not in a position even to walk, there are visible injuries on his body and also on his legs and feet. The Accused also confirmed the said facts to the Advocates' present in the Court. The Magistrate appears to have returned the remand report on the ground that as the accused is a member of the Parliament, the Speaker permission is necessary. Presently the accused is made to sit in the Court hall. Immediately he needs to be medically examined by a competent medical board and appropriate orders need to be passed.

Hence, I request you to dispense with filing of formal petition for paucity of time and to take immediate orders. I request that the Division Bench be convened immediately to take stock of the situation and for causing production of the Accused before this Hon'ble Court forthwith and for passing appropriate orders.

THIS IS MOST IMMEDIATE.

Yours faithfully,

Sd/-xxxx
(B.Adinarayana Rao)

2. A perusal of the letter would indicate that the request appears to be for issuance of *Habeas Corpus*, as detention of detenu beyond 5.00 PM amounts to illegal detention as his remand was not accepted by the Magistrate. The matter was heard on 15.05.2021 and this court passed an order observing that “Since the immediate relief, which is now claimed, is the medical examination by a competent Medical Board, we hereby constitute a Medical Board headed by the “Superintendent of Government General Hospital, Guntur.” The second Member of the Board would be the Head of Department of General Medicine of Government General Hospital, Guntur, while the third Member would be a Government Doctor, nominated by the Superintendent of Government General Hospital, Guntur. These three Doctors shall forthwith examine the accused, who will be produced before them by the Police and the examination of the accused shall be video-graphed by the hospital authorities. The video-graphed cassette should be kept in a sealed cover and be handed over to the Principal District Judge, Guntur District, who in turn shall forward the same to the Vacation Officer of the High Court Mr.M.Nageswara Rao, who shall keep it in safe custody. We further direct that the statement of the accused, if recorded by the Magistrate, as pleaded by the counsel for the petitioner, shall also be kept in a sealed cover and handed over to the Principal District Judge, Guntur, who in turn shall forthwith forward the same to the Vacation Officer of the High Court.”

Thereafter the matter was directed to be listed on 16.05.2021 at 12 noon.

3. The order passed by this Court was communicated to all concerned by the Vacation Officer. On 16.05.2021 the vacation officer has brought to the notice of this court that he has not received the medical report. Though he has made several calls to the Superintendent, Government General Hospital, Guntur, from 09:13 A.M there was no response from her end. At about 03:46 P.M she responded to his call and stated that they are preparing the report and it will be sent to the District Judge immediately. Then the bench was constituted at 6.00 p.m. and the medical report was received by the Court at 6.30 p.m.

4. When the matter was heard on 16.05.2021, Sri B. Adinarayana Rao, learned Senior Counsel, sought clarification in respect of the two orders relating to the medical examination of the accused. It appears that after this court passed orders directing constitution of medical board, the accused was produced for remand before the Court of VI Metropolitan Magistrate, Guntur, accused was remanded and an order came to be passed under Section 54 Cr.P.C. The letter addressed by the Magistrate to CID Mangalagiri P.S. reads as under :

“The accused by name Raghu Rama Krishna Raju in Cr.No.12/2021 of CID Mangalagiri P.S. was produced before this court on 15.05.2021 at 5.00 PM for judicial custody and at the time of production the learned counsel for petitioner submitted that the accused was arrested by the police on

14.5.2021, and the police used third degree methods against him during their custody, so he is unable to walk, further the accused underwent bypass surgery, so it is very necessary for medical examination. More so the accused confessed before the court at the time of accepting the remand that he underwent heart surgery in the month of December, 2020, he was kept in the room of CID Office, Guntur after arrested him at his residence of Hyderabad, prior to he goes to sleep in the said room at about 11.00 or 11.15 Pm, suddenly minimum five persons enter into his room, by that time they covered their faces with hand kerchiefs, then they tied his legs with rope, among them one person beaten him with stick and the second person beaten him with hard rubber stick on his both foots, then after they instructed him to walk on the floor, after he walked on the floor, then after they again beaten him with sticks and rubber sticks on his both foots in four or five times, when he unable to walk, they left in the said room and went away, basing on the aforesaid statement of the accused, I have also observed tenderness on both foots of the accused. Having think it fit to refer the medical examination this court directs the Superintendent of Government General Hospital, Guntur and Ramesh Hospital, Guntur to get examine the accused person in the presence of his security of Y category and in the course of examining the accused person the medical officer shall prepare the record of such examination by mentioning therein injuries or marks of violence upon the person arrested and the approximate time when such injuries or marks may have been inflicted. Both Government General Hospital, Guntur and Ramesh Hospital, Guntur authorities are further requested to send the concerned examination report certificates and opinion etc., forthwith to this court.”

5. The relevant portion of the order passed by this court on 16.05.2021 reads as follows- “it is clear that there are two orders with regard to medical examination of the accused are in force. One order was passed by this Hon’ble Court, on a House Motion moved by the

petitioner, for his examination by Medical Board and the second order is about examination of the accused by Ramesh Hospital, Guntur and by the Government General Hospital, Guntur....Since the order of the Magistrate is in force as of now, the same shall be given effect to. The issue as to whether the order of the High Court will supersede the order of the Magistrate has to be considered at the time of hearing of the main case. Having regard to the above, we direct respondent Nos.3 and 4 to forthwith take steps for complying with the order passed by the Magistrate on 15.05.2021 under Section 54 Cr.P.C., and place before the Magistrate the reports in terms of the order dated 15.05.2021, in which event the Magistrate shall proceed further in accordance with law. At this stage, Sri P. Sudhakar Reddy, learned Additional Advocate General, submits that the examination of the accused by Ramesh Hospital be modified since a case has already been registered against the owner of the Hospital and the Hospital and as such they cannot expect an unbiased opinion from that hospital. But, as observed earlier, the order of the learned Magistrate is not challenged till date and the same is still in force. List on 19.05.2021.”

6. Today i.e. 19.05.2021, when the matter came up for hearing, a copy of the order passed by the Hon'ble Apex Court was placed before this Court by the Registry and it appears that by order dated 17.05.2021 the Hon'ble Apex Court has directed the respondents to take the petitioner forthwith to the Army Hospital, Secundrabad for

medical examination along with other directions. The Learned Senior counsel submits that as they have approached the Hon'ble Apex Court, this matter may be taken up after Summer Vacation, 2021.

7. At this juncture, this Court asked the Learned Additional Advocate General Mr. P. Sudhakar Reddy whether the order passed by this Court was complied with or not, as the order copy was served on the respondents at 11:00 P.M. on 16.05.2021 and the order was passed by the Hon'ble Apex Court in the afternoon on 17.05.2021. The Learned Additional Advocate General flared up in a high tone to the annoyance of the Court and in an intimidating manner started arguing that an order under Article 226 of the Constitution of India, which is a "fraud" and "illegal" order cannot be implemented and that the High Court has become a platform to implement an illegal order of the magistrate. Further to demonstrate how the order of the Magistrate is illegal, he wanted the Court to look at Section 54 of Cr.P.C. This Court has refused to look at Section 54 as this Court is not going to examine the legality or otherwise of the order passed by this court. If the order is an illegal, fraud order as alleged by him, the illegality will necessarily have to be challenged before the appellate court. It is firmly reiterated that the court only wanted to know whether the order was complied with or not. He submits that he has received the order copy at 11:00 P.M. and he posed a question to the court whether "he is supposed to open the prison doors at night and shift him to the

hospital". Then the query from the Court (one of us, LKJ) was, assuming that they could not comply with the order as they received it at late night, why it was not complied-with in the morning, the reply was, as accused approached the Supreme Court, they have not implemented the order. Then continuing the very same intimidating tone, he stated that the Court has to hear what he has to submit and if the Court is not letting him to argue on merits i.e. how it is an "illegal"/ "fraud" order, he will walk out. Further in a louder tone, he cast aspersions on this Court as to "what is the special interest of the Court in this case and what is so special about the letter to be accepted and to take up this case". At that point, the Court has cautioned the Additional Advocate General to have control on his words and being an officer of the Court, it is not the way to respond as these types of obnoxious, frivolous allegations will tarnish the image of the judiciary.

8. The Hon'ble Apex Court time and again has evolved the human rights jurisprudence for the preservation, protection of human rights. It was reiterated that the protection of the accused should be in the interest of civilized system of law. This court having received a letter stating that the accused who is also a Member of Parliament was beaten up in police custody, leaving him in no position to walk, this Court cannot shut the doors of justice, particularly looking at the photographs, the writ petition was entertained. The Respondents must

know that even an accused has certain rights and it is the responsibility of the State to protect those rights. If there are any latches on the part of the State, this Court being the protector and guarantor of the indefeasible rights will not hesitate to come to their rescue.

9. Even a letter as pointed out by the Additional Advocate General is sufficient to entertain a petition. The legal position on this is no more *res-integra*. The Hon'ble Apex court in **Sunil Batra**¹ metamorphosed a *habeas* proceeding on the basis of a letter of a prisoner about the brutal assault of another prisoner. If the constitutional Courts do not come forward and protect the rights of the citizens, common man will lose hope in the justice delivery system. It does not make any difference to this Court while discharging its constitutional obligation whether the accused is a Member of Parliament or a common man. Whoever is in need of justice can knock the doors of the Court and it is the bounden duty of the Courts to protect the fundamental rights of the citizens.

10. The reasons assigned on behalf of the State for not implementing the order are that

- a. it is an 'illegal, 'fraud' order,
- b. the jail doors cannot be opened at 11:00 PM
- c. the accused has approached the Supreme Court.

¹ Sunil Batra v. Delhi Administration & Ors AIR 1980 SC 1579

None of these reasons prima facie convince this court for non-implementation of the order. Admittedly, the order of Magistrate dated 15.05.2021 or the order of this Court dated 16.05.2021 are not set aside or modified so far. The Respondents cannot sit in appeal on the orders passed by this court and decide that it is an illegal order. When an order is passed by the Court and as long as that order is not set aside, the respondents have no other alternative but to implement the same.

11. It is settled law that even if an order is void, it requires to be so declared by a competent forum and it is not permissible for any person to ignore the same merely because in his opinion the order is void... Thus, from the above it emerges that even if the order/notification is void/voidable, the party aggrieved by the same cannot decide that the said order/notification is not binding upon it. It has to approach the court for seeking such declaration. The order may be hypothetically a nullity and even if its invalidity is challenged before the court in a given circumstance, the court may refuse to quash the same on various grounds including the standing of the Petitioner or on the ground of delay or on the doctrine of waiver or any other legal reason. The order may be void for one purpose or for one person, it may not be so for another purpose or another person. (Emphasis Supplied) Krishnadevi

Malchand Kamathia & Ors. Vs. Bombay Environmental Action Group & Ors².

12. In the case on hand, where the accused complaints of ill treatment in police custody and when it is stated that he is not in a position to walk, the court directed the Respondents to “forthwith” implement the order of Magistrate. The Respondents should have understood the meaning of the word “forthwith”. Even assuming for argument sake, the order was communicated at 11.00 P.M., and that they could not implement the same, they had time till the orders were passed by the Hon’ble Apex Court in the afternoon. Merely moving a bail petition before the Hon’ble Supreme Court cannot be a ground for not implementing this Court’s order. The orders of the high court are binding on the Respondents till the order is passed by Hon’ble Apex Court. The entire thrust of argument of the Learned Additional Advocate General is the order of this court is an illegal order and hence they have not implemented. The other two grounds were advanced for the sake of arguments. *Prima facie* no plausible explanation is forthcoming for not implementing the orders.

13. With regard to submission of the medical report, it appears *prima facie* that the Superintendent has no respect towards the orders of the court particularly when on 15.05.2021, there was a direction to conduct the medical examination of the accused and submit the report

² AIR2011SC1140

and it was also observed that the bench will sit at 12:00 PM, the Superintendent had not taken any steps to complete the procedure nor intimated to this court about the delay and made the court to indefinitely wait till 06:00PM.

14. *Prima facie* it appears to this Court that the 3rd Respondent i.e. The Additional Director General of Police (CID), 4th Respondent i.e. Station House Officer, CID Police Station, Mangalagiri and Superintendent, Government General Hospital failed to implement the orders of this Court, and they have displayed scant respect towards orders of this Court. It is the sacrosanct duty of the Courts to ensure implementation of its own orders in order to safeguard the rights of the individual and uphold the majesty of the institution.

15. This Court is surprised with the brazenness and arrogance that Additional Advocate General advanced arguments, representing the State.

16. As far as the counsel for the State is concerned, it can be stated that he has a higher responsibility. A counsel who represents the State is required to state the facts in a correct and honest manner. He has to discharge his duty with immense responsibility and each of his action has to be sensible. He is expected to have higher standard of conduct. He has a special duty towards the Court in rendering assistance. It is because he has access to the public records and is also obliged to

protect the public interest. That apart, he has a moral responsibility to the Court. When these values corrode, one can say 'things fall apart'. He should always remind himself that an advocate, while not being insensible to ambition and achievement, should feel the sense of ethicality and nobility of the legal profession in his bones (Emphasis Supplied) *The Oriental Insurance Co. Ltd. and Ors. Vs. Diana George and Ors*³.

17. A Lawyer has to be a gentleman first. His most valuable asset is the respect and goodwill he enjoys among his colleagues and in the court. Brazenness is not outspokenness and arrogance is not fearlessness. Use of intemperate language is not assertion of right nor is a threat an argument. Humility is not servility and courtesy and politeness are not lack of dignity. Self-restraint and respectful attitude towards the Court. If the judiciary is to perform its duties and functions effectively and true to the spirit with which they are sacredly entrusted to it, the dignity and authority of the Courts have to be respected and protected at all costs. Otherwise, the very cornerstone of our constitutional scheme will give way and with it will disappear the rule of law and the civilized life in the Society. No one expects a lawyer to be subservient to the Courts while presenting his case and not to put forward his arguments merely because Court is against him, but he is not expected to be discourteous to the Court or

³ (2019) 2 CALLT 123 (HC)

to fling hot words or epithets or use disrespectful, derogatory or threatening language or exhibiting temper, which has the effect of overbearing the Court. The foundation of the judiciary is the trust and confidence of the people in its ability to deliver fearless and impartial justice. When the foundation itself is shaken by acts which tend to create disaffection and disrespect for the authority of the Court by creating distrust in its working, the edifice of the judicial system gets eroded. (Emphasis Supplied) In Re Vinay Chandra Mishra⁴.

18. The legal profession is a solemn and serious occupation. Advocates should ensure that the decorum of the court is maintained at all times. Being the member of the noble profession, the lawyer must conduct himself as role model for others. A verdict can never be acceptable to both the parties. A party which is unsatisfied with the verdict is provided with a remedy of questioning that order. No advocate has any right to talk in an intimidating manner. Advocate should not employ such tactics to wrench an order in his favor and should never identify himself with the client. The arguments advanced by the Additional Advocate General are prima facie appears to be contemptuous in nature and this is a fit case for initiating contempt proceedings and referring him to the Bar Council for taking appropriate action. But this court showing its magnanimity is not

⁴ 1995 Cri LJ 3994 : AIR 1995 SC 2348

proposing to take any action as of now. However if this behavior is repeated the court will not hesitate to take required action.

19. Hence, *prima facie* I feel that it is a fit case to initiate *suo motu* contempt proceedings against the respondents 3 and 4 i.e. the Additional Director General of Police (CID), DGP office, Mangalagiri, Guntur District and the Station House Officer, CID Police Station, Mangalagiri, Guntur District and the Superintendent of Government General Hospital, Guntur, for not implementing the orders of this Court.

Registrar (Judicial) is directed to take steps to initiate *suo motu* contempt proceedings.

Sd/-

JUSTICE LALITHA KANNEGANTI

Per Justice C. Praveen Kumar:

I agree with the view expressed by Sister Justice Lalitha Kanneganti with regard to taking up of *suo motu* contempt cases against respondents 3 and 4 i.e., the Additional Director General of Police (CID), DGP Office, Mangalagiri, Guntur District, and the Station House Officer, CID Police Station, Mangalagiri, Guntur District, and also against the Superintendent, Government General Hospital, Guntur. I feel that learned Additional Advocate General Sri P. Sudhakar Reddy should have shown some restraint during the

course of arguments. Restraint is the hallmark of a court room debate and choice of words should also be measured in a contested matter. The Additional Advocate General could have been sober and used better words during the court proceedings.

Post the matter after Summer Vacation, 2021.

Sd/-

JUSTICE C. PRAVEEN KUMAR

V. Diwakar 21/5/21
V. DIWAKAR

DEPUTY REGISTRAR

To,

1. The Principal Secretary, Home Department, State of A.P., Secretariat, Velagapudi, Amaravati, Guntur District.
2. The Director General of Police, Mangalagiri, Guntur, Guntur District, A.P.
3. The Additional Director General of Police (CID), DGP Office, Mangalagiri, Guntur District, A.P.
4. The Station House Officer, CID Police Station, Mangalagiri, Guntur District, A.P.
5. The Superintendent, Government General Hospital, Guntur, Guntur District, A.P. (**Addressee Nos. 1 to 5 by SPEED POST**)
6. The Registrar (Judicial), High Court of A.P. at Amaravati. (**for compliance of the direction of the Hon'ble Court**)
7. Two CC's to Advocate General, High Court of A.P. at Amaravati.
8. One CC to Sri B. Adinarayana Rao, Senior Counsel, High Court of A.P. [OPUC]
9. Two CC's to Addl. Advocate General, High Court of A.P. [OUT]
10. Two CC's to Public Prosecutor, High Court of A.P. [OUT]
11. Two CC's to Special Public Prosecutor (CID), High Court of A.P. [OUT]
12. Two CD copies

MSR

HIGH COURT

**CPK,J
&
LK,J**

DATED: 19.05.2021

NOTE: LIST AFTER SUMMER VACATION 2021.

ORDER

TAKEN UP WP NO. 10152 OF 2021



DIRECTION