

PETITIONER:
GOVERNMENT OF A.P. & ANR.

Vs.

RESPONDENT:
G. LAKSHMAN REDDY & ANR.

DATE OF JUDGMENT: 01/11/1996

BENCH:
K. RAMASWAMY, G.B. PATTANAIAK

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

Leave granted

We have heard the learned counsel on both sides.

A compound wall was admittedly constructed at Police Lines in Nizamabad Town in Andhra Pradesh, Statedly to protect the police quarters. A suit was filed in OS No. 123 of 1991 on the file of the District Munsif, Nizamabad for demolition of the wall on the ground that the police construction of the wall had obstructed public way. Decree was granted, though exparte on September 12, 1991 since the police refused to receive the notice. The execution application was laid by the decree-holder on December 1, 1991. The Court had issued notice on execution. Thereafter, warrant was issued on February 7, 1996 for demolition of the wall. The warrant was entrusted to one Shri Madhusudhan Bhat for enforcement. He went along with Venkaiah, another bailiff, Syed Ahmad Ali and G.Vinayak Raj process servers, along with workmen to the site to demolish the constructed wall. While they were in the process of demolishing the wall, it is now clear from the record that Circle Inspector of Police, Narsimha Raju, the Sub-Inspector of Police, Laxminarayana and other police force had gone there and obstructed the execution of the warrant. They took the court officers to the police station. It is the report of the bailiffs that they were wrongly confined in the police station, despite the fact that they had informed that they are Court officers and had come to the spot with their duty to execute the warrant. On the basis of that report, a complaint came to be filed and is pending decision, So, we need not proceed further on that issue.

When the matter was brought to out notice in the appeal filed by the Government agent on the refusal to set aside ex-parte decree, we had taken Suo Motu action and issued notice on April 21, 1996 to Circle Inspector of Police, 4-Town, Narsimha Raju, Sub-Inspector of Police, 4-Town, P.S.Laxminarayana and Head Constable Murali, 4-Town Police Station, Niranjan, Head Constable, 4-Town Police Station and Hameed, Reserve Sub-Inspector, Special Party, Pursuant Thereto, Narasimha Raju, Circle Inspector of Police and the Sub-Inspector of Police Laxminarayana extenuating

circumstances; they pleaded that there was a commotion; law and order problem was created by the mob on account of pelting stone by the police personnel and the public at each other. There were about 300 to 400 people gathered there. To disburse the mob, they had used force to defuse law and order situation. They pleaded that they did not know that the court officers had come there to demolish the wall. As a consequence they had no intention to violate the orders of the court in execution of the warrant. In view of those statements, we directed the District judge, Nizamabad to examine the persons and submit the report with his findings, The learned district Judge in his report dated July 19. 1996 has recorded the findings that Madhusudhan Bhatt and the above said court officers and workmen had gone to execute the warrant for demolition of the wall. He found that the Central Nazir had entrusted to P.Venkaiah, and G.Vinayak Raj ad S.A. Ali but Central Nazir has not power to direct them to accompany Madhusudhan Bhatt and Venkaiah to execute the warrant. The plea of the Inspector and the Sub-Inspector that there was a commotion and law and order problem. was found false and baseless; no one sustained any injury by either side nor was any complaint registered in that behalf. the court officers informed them that they had gone there with the warrant to demolish the compound wall and the Sub-Inspector pushed one of the bailiffs forcibly into the police jeep. This is also an admitted position that they had taken the court officers to the police station. Whether or not the court officers were wrongly confined in the police station, is a matter not pending trial Therefore, we need not go into the question.

The question is: whether the police personnel had obstructed the execution of the warrant and whether committed contempt of the court? The District Judge has recorded the finding that two Head Constables and Reserve Sub-Inspector were not identified nor spoken to by the Senior Advocate examined as witness No.6 or the bailiffs or the process server as among the police personnel who were present. But the fact that remains is that these three officers have specifically taken a plea of alibi. the fact that they have taken plea of alibi would establish their indirect admission; but they attempted to prove their presence elsewhere. Otherwise, where was no need for them to plead alibi. the district Judge has rejected their plea of alibi that they were not present in the town on that date. Thus, it would show that among the police personnel the five persons, stated above, were present at the time when the warrant of execution was effected by the court officers.

It is also stated by P.W.6 that after the wall was demolished, the police had reconstructed of the police having no regard for law; it is a contumacious conduct on the part of police personnel. There appeared to be a negotiation between the police and P.W. 6 and public; P.W.6 seemed to be insisting upon the demolition of reconstructed wall or to provide free passage to the public by opening a gate in the wall that obstructs the passage. The negotiations have failed. It would appear that the Superintendent of Police met the District Judge to apprise the later of the situation. that would clearly establish that the police personnel have no regard for law and they have taken the law into their had obstructing the court officers in performance of the public duties in execution of the warrant obtained by the decree-holder for demolition of the wall merely because they are the police personnel they have no right to take law into their hands, unlawfully obstruct the court officers executing the warrant.

Therefore, they have clearly and wilfully with obstinate bravado, committed contempt punishable under Section 12 of the Contempt of Courts Act.

The question then would be: as to what punishment should be imposed on them? It is seen that P.W.1 Inspector and the Sub-Inspector have specifically taken the stand that there was a commotion for disbursement of which they had used force; this stand is now clearly found to be false. The learned District Judge had recorded a finding that they have spoken falsehood. Under these circumstances, they have no regard for truth. They have taken the law into their hands. The question, therefore, is: whether the acceptance of apology or imposition of the fine, as contended by Smt. K.Amreshwari, learned senior counsel would be an insult to the injury; could that be accepted as a justification for imposing lesser punishment? Having regard to the facts and circumstances of the case, we are of the considered view that the Circle Inspector and the Sub-Inspector namely, Narasimha Raju and Sri Laxminarayana are required to be punished. Accordingly, they are convicted under Section 12 and directed to undergo simple imprisonment for a period of 2 months. they should also, in addition, pay a fine of Rs. 2,000/-. Each should pay Rs. 2,000/-; in default, they shall be required to further undergo a sentence of 15 days. the fine shall be payable personally from their pockets. The superintendent of Police Nizamabad Should deduct the same from their salary and have it credited to the court account.

With regard to two Head Constables and the Reserve Sub-Inspector, we think that they did not play prominent role though they were members of the obstructing party for the execution of the warrant. Therefore, they are convicted and sentenced under Section 122 to pay a fine of Rs. 1,000/- each. In default, they should further undergo sentence of 15 days. They fine should further under go sentence of 15 days. They fine should be paid personally from their pockets or deducted from their salary. The Superintendent of Police Shall equally have the fine credited to the court account. The contempt proceedings are accordingly allowed to the above extent. The appeal filed by the state against ex-parte decree as confirmed by the High court is dismissed. The accused are directed to surrender immediately before the District Judge, Nizamabad, within one week from the date of the receipt of the order by the District Judge. The Registry is directed to communicate this order to the District Judge Nizamabad, A.P. the District Judge is directed to issue notice to them. On their surrender, he should send them to undergo the sentence in Central Jail Chanchalgadh, Hyderabad, A.P. The District Judge is directed to submit a report of the compliance of above direction to the registrar of this Court.