

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Cr1) No(s).6668/2011

(From the judgement and order dated 21/07/2011 in CRLP
No.5678/2011, of The HIGH COURT OF A.P AT HYDERABAD)

STATE OF ANDHRA PRADESH

Petitioner(s)

VERSUS

YOUNUS BIN OMER YAFAI @ YOUNUS BHAI &ANR

Respondent(s)

(With appln(s) for stay and bringing on record addl. Documents
and office report)

SLP(Cr1) NO. 9027 of 2011

(With appln. For cancellation of bail and bringing on record
addl. Documents and office report)

WITH SLP(Cr1) NO. 9001 of 2011

(With appln. For cancellation of bail and permission to file
addl.documents on record and office report)

Date: 16/03/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

For Petitioner(s) Mr. Harin Rawal, Sr.Adv.(SLP(Cr1.)6668, 9001/11)
 Ms. June Choudhary, Sr.Adv. (SLP(Cr1)9027/11)
 Mr. D. Mahesh Babu, Adv.
 Mr. Mayur R. Shah, Adv.
 Ms. Savita Devi, Adv.
 Mr. Amit K. Nain, Adv.
 Ms. Suchitra Hrangkhawl, Adv.
 Mr. Prithvi S., Adv.

For Respondent(s) Mr. Altaf Ahmad, Sr.Adv.
 Mr.K.V.Vishwanathan, Sr.Adv.
 Mr. Nuzaffarullah Khan, Adv.
 Mr. K.S. Rahul, Adv.
 Mr. Md. Adeel Siddiqui, Adv.
 Mr.Arif Ali Khan, Adv.
 Mr. Md. Irshad Hanif, Adv.

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Mr. Vijendra Kumar, Adv.
Mr. Shaikh Chand Saher, Adv.
Mr. Mohd.Irshad Hanif, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.

The Appeals are disposed of in terms of the
respective signed order.

(Signed orders are placed on the respective files)
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 536 OF 2012
(Arising out of SLP(Crl.) No.6668 of 2011)

State of Andhra Pradesh ...Appellant

Versus

Younus Bin Omer Yafai @ Younus Bhai & Anr. ...Respondent

ORDER

Leave granted.

We have heard Mr. Harin Rawal, learned Additional Solicitor General and Mr. Altaf Ahmad, learned senior counsel for the respondents. We have gone through the impugned judgment and order dated 21.7.2011, and perused the record of the case. Learned counsel for the appellant has contended that without assigning any reason the High Court has passed the order granting bail to the respondents.

Considering the facts and circumstances of the case, we are not satisfied with the manner in which the bail application has been disposed of by the High Court as no reason whatsoever, has been assigned for grant of bail.

In view of the above, impugned order dated 21.7.2011 is set aside and we request the High Court to decide the bail application afresh within a period of six weeks from today. The respondents shall remain protected in the meantime.

However, we make it clear that we have not expressed any view one way or the other on the merits of the case.

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In case the application is not disposed of within the stipulated time, the respondents shall be at liberty to renew their prayer for interim bail before the High Court.

Needless to say that the parties will co-operate and will not take unwarranted adjournments before the High Court.

The appeal is disposed of.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(JAGDISH SINGH KHEHAR)

New Delhi,
March 16, 2012

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 537 OF 2012
(Arising out of SLP(Crl.) No.9027 of 2011)

State of Andhra Pradesh ...Appellant(s)

Versus

Awad Bin Younus Yafai (A5)

...Respondent(s)

ORDER

Leave granted.

Heard learned counsel for the parties and perused the record.

This appeal is disposed of in terms of our order of this date passed in connected Criminal Appeal No.536 of 2012 arising out of Special Leave Petition (Crl.) No.6668 of 2011 titled State of Andhra Pradesh versus Younus Bin Omer Yafai @ Younus Bhai & Anr.

It has been pointed out by the learned counsel for the parties that the High Court while dealing with the bail application has passed the following order:

"(2) The Station House Officer, Central Crime Station, Hyderabad, is directed to register a case/crime under appropriate sections of law and against all the persons concerned on the incident of police gunmen opening fire against the accused party in this case after recording statement of the petitioner/A5 or after receiving written report given by him and to investigate into the same as per law; and

(3) Directing the Government of Andhra Pradesh to initiate Magisterial enquiry into the incident relating to opening of fire by the police gunmen attached to

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M.L.A. of Malakpet constituency causing death of A-4 and causing bullet injuries to A-3 and A-5, and after receiving report of the Magistrate to take steps according to law.

In the facts and circumstances of the case and after hearing Mr. Harin Rawal, learned Additional Solicitor General and Mr. Altaf Ahmad, learned senior counsel for the respondents and having gone through the impugned judgment and order dated 21.7.2011, we are of the view that it was not permissible for the High Court to issue the aforesaid directions contained in paragraphs 2 and 3 while dealing with the bail application. This kind of direction could be issued only while dealing with the petition filed under Articles 226/227 of the Constitution of India or under Section 482 of the Code of Criminal Procedure.

In view of the above, with the aforesaid directions, the impugned judgment and order of the High Court are set aside. Needless to say that any consequential order passed/FIR lodged, if any, shall stand washed off and would remain inconsequential.

However, it shall be open to the applicants to approach the appropriate forum for seeking appropriate directions/remedy in accordance with law.

With these observations, the appeal stands disposed of.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(JAGDISH SINGH KHEHAR)

New Delhi,
March 16, 2012

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 538 OF 2012

(Arising out of SLP(Crl.) No.9001 of 2011)
State of Andhra Pradesh ...Appellant

Versus

Mohd. Bin Omer Yafai & Ors. ...Respondents

ORDER

Leave granted.

Heard learned counsel for the parties.

This appeal is disposed of in terms of our order of this date passed in connected Criminal Appeal No. 536 of 2012, arising out of Special Leave Petition (Crl.) No. 6668 of 2011 titled State of Andhra Pradesh versus Younus Bin Omer Yafai @ Younus Bhai & Anr.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(JAGDISH SINGH KHEHAR)

New Delhi,
March 16, 2012