

State of Andhra Pradesh

Vs

Intha Ramana Reddy and Another

Criminal Appeal No. 9 of 1972

(P.N. Bhagwati, A.C. Gupta, P.N. Shinghal JJ)

16.11.1976

JUDGMENT

GUPTA, J. –

1. The two respondents were convicted under Section 302 read with Section 34 of the Indian Penal Code and were sentenced to death for the murder of Nellore Venkata Reddy of village Maddurupalli in Andhra Pradesh by the Sessions Judge, Nellore Division. It, was according to the Sessions Judge, a case of "planned, deliberate and coldblooded murder". The High Court of Andhra Pradesh at Hyderabad hearing the reference for confirmation of the death sentence upheld the conviction of the respondents under Section 302 read with Section 34. On the question of sentence the learned Judges of the High Court thought that the sentence of death should be commuted to one for imprisonment for life and they ordered accordingly. What weighed with the learned Judges in awarding the lesser sentence will appear from the following extract from their judgment :

We now come to the question of sentence. A-1 and A-2 (the respondents) were sentenced to death by the learned Sessions Judge. Both of them professed to be Naxalites. They appear to labour under the sincere belief that organised violence in rural areas directed against rich landlords labelled by them as enemies of the people will soon lead to an armed insurrection and revolution and thereafter, to the abolition of all inequality and to the happiness, prosperity and peace of all the people of India. While it is true, on the one hand, that the accused killed an innocent person who had done them no harm, it must also be borne in mind, on the other hand, that they did not act out of any personal motive but out of what they conceived to be a public motive. They had no personal animosity against the deceased and they sought no personal gain. The means of murder employed by the accused as a step to achieve their ultimate goal was certainly blameworthy, but it cannot be said that their motive, according to their conception was a low or mean motive. While it is necessary to recognise that the dictates of conscience which lead to injury to others may also merit severe punishment sometimes, it is also necessary to recognise that people acting out of genuine and passionate motive according to their conscience, do not merit extreme punishment. In that view we think that the sentence of death passed on A-1 and A-2 must be set aside. Instead, we sentence each of them to suffer imprisonment for life.

2. In this appeal by special leave the appellant, State of Andhra Pradesh, contends that the reasons given by the High Court for commuting the sentence of death is not a valid reason.

3. In view of what this Court said in *G. Krishta Goud v. State of Andhra Pradesh* [(1976) 2 SCR 73

: (1976) 1 SCC 157 : 1957 SCC (Cri) 788] the consideration which moved the High Court does not seem to be valid. In Krishta Goud's case this Court said :

What is powerful as pre-legislative campaign or post-legislative reform, what is high ethics and noble humanism on Sunday pulpit and political platform and what is sure to dawn tomorrow but is struggling to be born today all these are on the law-moulding matrix but not law now and here. We are not prophets of the Advent but pragmatic technicians using the tools and the knowhow handed down to courts by the legislature. Judges may have a creative role and do activist engineering but obedient to the text of the Constitution...

Patriots and others seeking to accomplish political goals or to attack the political order may commit acts which under municipal laws may be crimes - but are designated in other jurisdictions like extradition laws and sometimes for purposes of reprieve as a class called political offences. But the Penal Code which, by oath of office, we enforce, makes no such classification and in the cold stare of our criminal system, murder is murder.

The High Court does not appear to differ from the Sessions Judge that this was a planned and coldblooded murder which led the trial Court to impose the extreme penalty on the respondents. It must be held on the authority of Krishta Goud's case that the only ground which the High Court considered sufficient to commute the sentence of death to imprisonment for life a not a valid ground in law. The case is therefore sent back to the High Court. The High Court will consider whether there is any proper ground for interfering with the sentence awarded by the trial Court and dispose of the case in accordance with law. The appeal is allowed to the extent indicated above.

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