

State of Andhra Pradesh and Others

Vs

G. M. Morey

Criminal Appeal No. 270 of 1982

(A. P. Sen, E. S. Venkataramiah, R. B. Misra JJ)

04.05.1982

JUDGMENT

CHINNAPPA REDDY, J.-

1. We see no merit in the appeal and we accordingly reject it. Frank and fair as usual, Shri K. Parasaran, learned Solicitor-General, invited us to consider whether the point of view which he was presenting to us would make any difference to the view expressed by the Court in *Morey v. State of Andhra Pradesh*. What we now say is, therefore, a postscript to what the Court has said in *Morey v. State of A.P.* ((1982) 2 SCC 433). The learned Solicitor-General argued that G.O. Ms. No. 557 was earlier in point of time than the pronouncement of this Court in *Maru Ram v. Union of India* ((1981) 1 SCR 1196 : (1981) 1 SCC 107 : 1981 SCC (Cri) 112) and that at that time, it was thought that Section 433-A, CrPC was retrospective and applied equally to those convicted and sentenced before that provision came into force as to those convicted and sentenced thereafter. He also suggested that there was no need at all to except those who were governed by Section 433-A, CrPC from the G.O., since the Government could not in any event remit the sentences of those governed by Section 433-A, CrPC. We are unable to agree with the submissions of the learned Solicitor-General.

2. In *Maru Ram v. Union of India* ((1981) 1 SCR 1196 : (1981) 1 SCC 107 : 1981 SCC (Cri) 112), the Court merely declared the law and did not make it. The law declared by the Court must be considered to have always been so. The G.O. has necessarily to be considered in the light of construction placed upon Section 433-A, CrPC by this Court in *Maru Ram v. Union of India* ((1981) 1 SCR 1196 : (1981) 1 SCC 107 : 1981 SCC (Cri) 112).

3. Now, what was the object of Section 433-A, CrPC ? It was that those governed by it shall not be released unless they have served a sentence of at least 14 years' imprisonment. Section 433-A, CrPC does not govern all life convicts. It does not apply to those convicted and sentenced to life imprisonment before its commencement. It does not apply to those convicted and sentenced to life imprisonment for offences not punishable with death, such as, Sections 304, 307, 326, IPC, etc.

4. Those convicted and sentenced to life imprisonment after the commencement of Section 433-A, CrPC for offences for which the sentence of death could have also been imposed alone are governed by Section 433-A, CrPC. The effect of Section 433-A, CrPC on those that are governed by it is that they must undergo imprisonment for a minimum period of 14 years. Those that are not governed by Section 433-A, CrPC are not bound to undergo imprisonment for a minimum period of 14 years, being eligible for such remissions as may be granted to them by the Government. Those governed by Section 433-A, CrPC are excepted from the benefit of G.O. Ms. No. 557 for the obvious reason that they have to serve the statutory minimum period of 14 years in jail prescribed by Section 433-

A, CrPC. Others, i.e., those in respect to whom there is no such statutory compulsion are entitled to the benefit of the G.O. The reference to those governed by Section 433-A, CrPC in the G.O. is evidently to clarify the position that the G.O. will not apply to those life convicts in respect to whom there is a statutory compulsion to serve a minimum term of imprisonment of 14 years and will apply to those in respect of whom there is no such statutory compulsion. In the result, the appeal is dismissed.

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