

State of Andhra Pradesh

Vs

P. Anjaneyulu

Special Leave Petition (Criminal) No. 476 of 1981

(O. Chinnappa Reddy, V. B. Eradi JJ)

02.11.1982

ORDER

1. This special leave petition was filed by the State of Andhra Pradesh against the judgment of the High Court of Andhra Pradesh in all solemnity. When it came up for hearing before our brothers, D. A. Desai and A. P. Sen, JJ. on September 14, 1982, it was represented to the Court that a wireless message had been received instructing the counsel to withdraw the special leave petition. Permission was therefore sought to withdraw the special leave petition. The Court, however, adjourned the matter so that an affidavit may be filed setting forth the reasons for the withdrawal. At the next hearing, an affidavit was filed giving a virtual lecture to this Court on the scope of the jurisdiction of this Court under Article 136 of the Constitution and asserting that the case was not a fit one for granting special leave. If so, why was it filed at all by the State in the first instance, one wonders. Was the State unaware of the nature and extent of the jurisdiction under Article 136 ? The dependent of the affidavit who described himself as a Section Officer in the Home Department, made no effort to give any reason for the withdrawal. Dissatisfied with the affidavit, we called for another affidavit, from a more responsible officer and today another affidavit has been filed by a Deputy Secretary to the Government stating that on a reconsideration of the matter the Government had decided to withdraw the special leave petition. That the Government reconsidered the matter and decided to withdraw the special leave petition is an obvious fact. Why did the Government reconsider the matter and what were the reasons which impelled the Government to change its mind ? Were there any supervening circumstances ? Did any fresh facts come to light ? Did the Government move at the instance of somebody ? Was any legal opinion taken ? We expected an affidavit to be filed explaining these circumstances. Instead we are merely told that on a reconsideration of the matter the Government decided to withdraw the special leave petition. The grounds on which the special leave was sought claimed that the High Court had made some grossly erroneous assumptions and that the findings of the trial Court had been reversed by the High Court in a summary manner when there was no evidence warranting such a reversal. Making due allowance for forensic exaggeration, we presume that the grounds were prepared on instructions and with a sense of responsibility. We presume legal advisers were consulted before the special leave petition was filed. If so, why is it being withdrawn now ? Is it not a waste of public time and money to solemnly file special leave petitions and then solemnly withdraw the same for no apparent reason or was the whole thing done casually and never solemnly ?

2. This is not a dispute between private parties where the disputants may arrive at a settlement outside Court and inform the Court that they desire to withdraw whatever case is before the Court. This is an application filed on behalf of the State, which really means the people. Public interest is involved. We are seriously concerned that the State should file a case in the highest Court of the land and then want to withdraw it for no disclosed reason. We have therefore decided to consider the

special leave petition on merits ignoring the request for withdrawal.

3. The respondent was convicted by the Special Judge for SPE and ACB cases, Hyderabad, under Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act and sentenced to a term of imprisonment. On appeal the High Court reversed the Judgment of the trial court and acquitted the respondent. The case rested primarily on the evidence of PW 1 who was found to be an unreliable witness by the High Court. The question is one of appreciation of evidence and the proposed appeal does not raise any substantial question of law. Apart from that we do not ordinarily entertain appeals against orders of acquittal if two views of the evidence are possible. On a perusal of the Judgment of the trial court and the High Court we are unable to say that the High Court has taken an unreasonable view of the evidence. The special leave petition is therefore dismissed on merits and not because the State has desired to withdraw the same.

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