

State of Assam & Anr.

Vs

R. K. Krishna Kumar

(M. K. Mukherjee, K. T. Thomas JJ)

24.10.1997

JUDGMENT

THOMAS,J.

1. Leave granted.

2. This appeal is in challenge of the order of a learned single Judge of the Bombay High Court granting anticipatory bail to the respondent No.1. When this petition was taken up for hearing, his learned Counsel brought to our notice that in spite of the above order the Assam police arrested respondent No.1 and took him into custody. Thereby, he submitted, the appellants have violated the direction of the Bombay High Court in the impugned order.

3. Shri K.T.S.Tulsi, the learned counsel appearing for the appellants, while conceding that respondent No.1 was arrested, joined issue with him on the contention that appellant violated the direction of the Bombay High Court. He put forward the stand of the State of Assam for not releasing him on bail.

4. We do not think it necessary to deal with the said controversy in this appeal. If the respondent No.1 wants to raise that question it is open to him to move the appropriate forum.

5. As the respondent No. 1 is now under arrest this appeal has become infructuous. It is accordingly dismissed.

6. Leave granted.

7. State of Assam and its Director General of Police have filed these appeals challenging the orders of the Bombay High Court as per which some officers of M/s. Tata Tea Ltd. (who are arrayed as respondents herein) were granted anticipatory bail facility. It appears that those respondents are suspected to have given aid to militant groups which have been banned under the provisions of the Unlawful Activities (Prevention) Acts, 1967. Assam Police are wanting to interrogate all the suspected persons, including the respondents, in connection with investigation of the cases registered for the above crimes by the appellants. Respondents moved the Bombay High Court for anticipatory bail and a learned Single Judge without even affording an opportunity to the appellants for a hearing directed the appellants to release the respondents, if arrested, on bail of Rs.10,000/- each with one or two sureties of the like amount.

8. Various arguments have been raised by Shri K.T.S.Tulsi, learned counsel appearing for the appellants, in challenge of the impugned orders. Learned counsel appearing for the respondents, while arguing in reply to the appellants' contention did not dispute that Government of Assam or the

Director General of Police of the State of Assam were not heard, in spite of they being made parties in each of the applications for anticipatory bail.

9. According to Shri Tulsi, only the Courts of Session in Assam and High Court of Guwahati have jurisdiction to entertain the applications for anticipatory bail in respect of the activities alleged against the respondents vis-a-vis the two banned organizations because all such crimes were committed within the territorial limits of the State of Assam.

10. We do not think it necessary to decide whether Bombay High Court has jurisdiction to entertain the applications filed by the respondents. All the same, the question of granting anticipatory bail to any person who is allegedly connected with the offences in question must for all practical purposes be considered by the High Court of Guwahati within whose territorial jurisdiction such activities should have been perpetrated. In view of the conceded position that appellants were not heard by the High Court we set aside the impugned orders on that ground alone. The applications are to be disposed of after hearing the appellants also. For that purpose we order that the applications for anticipatory bail filed by the respondents would stand transferred to the High Court of Guwahati where those applications would be heard by a Division Bench of that High Court and appropriate orders be passed thereon. We request the Chief Justice of High Court of Guwahati to allot these cases to a Division bench to hear the applications preferably on 4.11.1997

11. In order to avoid conflicting decisions and opinions we think it necessary that all future petitions for anticipatory bail made by any one in common or related matters referring to such activities committed within the territorial limits of Guwahati High Court shall be heard only by the same Division Bench. We further direct that no such application for anticipatory bail shall be entertained by any court other than the Division Bench of the High Court of Guwahati indicated above.

12. Status quo as on today will be maintained by the appellants vis-a-vis the respondents herein till 7.11.1997 which is necessary to enable the Division Bench of the High Court of Guwahati to pass appropriate orders on the applications filed by the respondents.

13. We direct the Registry to take immediate steps to ensure that the applications filed by the respondents for anticipatory bail in Bombay High Court are dispatched to Guwahati High Court so as to reach there on or before 3.11.1997.

14. The appeals are thus disposed of.