SUPREME COURT OF INDIA

P. Ramachandra Rao

Vs.

State of Karnataka

(Doraiswamy Raju J.)

16.04.2002

JUDGMENT

Doraiswamy Raju, J.

I have had the privilege of going through the judgment of esteemed and learned brother R.C. Lahoti, J., while I am in respectful agreement that the appeals are to be allowed and remitted to the High Court to be heard and decided afresh, I feel compelled to express my reservation and inability to subscribe to some of the observations contained therein relating to the powers and jurisdiction of this Court. The declaration of law made by the Constitution Bench of five learned Judges of this Court in the decision reported in *A.R. Antulay's case*[1] still holds the field and its binding force and authority has not been undermined or whittled down or altered in any manner by an other decision of a larger Bench. Consequently, the Benches of lesser number of Constitution of Judges which dealt with the cases reported in *"Common Cause" A Regd. Society through its Director Vs. Union of India & Ors.*[2].

"Common Cause" A Regd. Society through its Director Vs. Union of India & Ors.[3], *Raj Deo Sharma Vs. State of Bihar*[4] *and Raj Deo Sharma (II) Vs. State of Bihar*[5] could not have laid down any principles in derogation of the ratio laid down in A.R.Antulay's case (supra) either by way of elaboration, expansion, clarification or in the process of trying to distinguish the same with reference to either the nature of causes considered therein or the consequences which are likely to follow and which, in their view, deserve to be averted. Even where necessities or justification, if any, were found therefor, there could not have been scope for such liberties being taken to transgress the doctrine of binding precedents, which has come to stay firmly in our method of Administration of Justice and what is permissible even under such circumstances being only to have had the matter referred to for reconsideration by a larger Bench of this Court and not to deviate by no other means. This solitary reason would suffice by itself to overrule the above decisions, the correctness of which stand referred to for consideration by this Bench. All the more so when, there is no reason to doubt the correctness of the decision in A.R. Antulay's case (supra) and this Bench concurs with the principles laid down therein.

Though this Court does not consider itself to be an Imperium in Imperio or would function as a despotic branch of `The State', the fact that the founding fathers of our Constitution

designedly and deliberately, perhaps, did not envisage the imposition of any jurisdictional embargo on this Court, except in Article 363 of the Constitution of India is significant and sufficient enough, in my view, to identify the depth and width or extent of its powers. The other fetters devised or perceived on its exercise of powers or jurisdiction to entertain/deal with a matter were merely self-imposed for one or the other reason assigned therefor and they could not stand in the way of or deter this Court in any manner from rising up to respond in a given situation as and when necessitated and effectively play its role in accommodating the Constitution to changing circumstances and enduring values as a `Sentinel on the qui vive' to preserve and safeguard the Constitution, protect and enforce the fundamental rights and other constitutional mandates which constitute the inviolable rights of the people as well as those features, which formed its basic structure too and considered to be even beyond the reach of any subsequent constitutional amendment. In substance, this Court, in my view, is the ultimate repository of all judicial powers at National level by virtue of it being the Summit Court at the pyramidal height of Administration of Justice in the country and as the upholder and final interpreter of the Constitution of India and defender of the fundamentals of `Rule of Law'. It is not only difficult but impossible to foresee and enumerate all possible situations arising, to provide in advance solutions with any hard and fast rules of universal application for all times to come. It is well known that where there is right, there should be a remedy. In what exceptional cases, not normally visualized or anticipated by law, what type of an extra-ordinary remedy must be devised or designed to solve the issue arising would invariably depend upon the gravity of the situation, nature of violation and efficacy as well as utility of the existing machinery and the imperative need or necessity to find a solution even outside the ordinary framework or avenue of remedies to avert any resultant damage beyond repair or redemption, to any person. Apparently, in my view, alive to such possibilities only even this Court in A.R. Antulay's case (supra) has chosen to decline the request for fixation of any period of time limit for trial of offences not on any total want or lack of jurisdiction in this Court, but for the reason that it is "neither advisable nor practicable" to fix any such time limit and that the non-fixation does not ineffectuate the guarantee of right to speedy trial. The prospects and scope to achieve the desired object of a speedy trial even within the available procedural safeguards and avenues provided for obtaining relief, have also been indicated in the said decision as well as in the judgment prepared by learned brother R.C. Lahoti, J. I am of the firm opinion that this Court should never venture to disown its own jurisdiction on any area or in respect of any matter or over any one authority or person, when the Constitution is found to be at stake and the Fundamental Rights of citizens/persons are under fire, to restore them to their position and uphold the Constitution and the Rule of Law for which this Court has been established and constituted with due primacy and necessary powers authority and jurisdiction, both express and implied.

Except dissociating myself from certain observations made expressing doubts about the jurisdiction of this Court, for the reasons stated above, I am in entire agreement with the other reasons and conclusions in the judgment.

[1](1992)1 SCC 225 *[2](1996)4 SCC 33* *[3](1996)6 SCC 775*
[4](1998)7 SCC 507 *[5](1999)7 SCC 604*