

[3418]

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**TUESDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO**

WRIT PETITION NO: 10419 OF 2009

Between:

Prof S.Seshaiah, S/o Late Ramaiah, aged 54 years, Occ: President of Andhra Pradesh Civil Liberties Committee, Plot No.49 Vidyuthnagar, Anantapur.

...PETITIONER

AND

1. The Government Andhra Pradesh, Rep: by its Secretary, Home Department, Secretariat Hyderabad
2. The Director General of Police, Lakdikapool, Hyderabad, Govt. Of Andhra Pradesh
3. The Superintendent of Police, Warangal District
4. The Station House Officer, Tadwai Police Station Warangal District
5. The Superintendent M.G.M Hospital, Warangal, Warangal District

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order or orders more particularly one in the nature of writ of Mandamus declaring that the act of the Respondents No.3 and 4 in arresting both patel Sudhakar Reddy and Venkataiah at Shirdi at about 8.30 a.m on 23/05/2009 and subsequently killing them and throwing their dead bodies at Lavvala Forest Area and claiming as it an encounter as illegal, arbitrary and violative of the Art-21 of the constitution of India.

I.A. NO: 1 OF 2009(WPMP. NO: 13393 OF 2009)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents No.3 to reveal the names and descriptive particulars of the Police Officials who participated in the alleged encounter as claimed by the respondent No.3 in the Various media.

I.A. NO: 2 OF 2009(WPMP. NO: 13394 OF 2009)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent No.4 forthwith register a case of Murder against the Police Personnel who have claimed to have killed both patel Sudhakar Reddy and Venkataiah in an encounter on 24-5-2009 in the various media as mandated by the larger bench judgment of our High Court of APCLC Vs.Govt of A.P & others in W.P No.15419/2006 dt 6-2-2009 and further direct the prosecution and punishment of the erring Police officials who are involved in this encounter.

I.A. NO: 3 OF 2009(WPMP. NO: 13395 OF 2009)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent No.4 to shift and preserve the dead bodies Patel Sudhakar Reddy and Venkataiah and Mortuary, MGH Hospital, Warangal District and conduct Post Mortem on these bodies by a team of Forensic Experts and then hand over the dead bodies to their relatives or friends after proper identification.

Counsel for the Petitioner: SRI R.MAHADEVAN

**Counsel for the Respondent No.1 to 4: SRI S.RAHUL REDDY, SPL. GP, REP.
FOR ADDL ADVOCATE GENERAL**

The Court made the following: ORDER

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J.SREENIVAS RAO**

WRIT PETITION NO. 10419 OF 2009

ORDER: *(Per the Hon'ble Sri Justice J.Sreenivas Rao)*

This writ petition is filed for the following relief:

“..... to issue an order or orders more particularly one in the nature of writ of Mandamus declaring that the act of the respondent Nos.3 and 4 in arresting both Patel Sudhakar Reddy and Venkataiah at Shirdi at about 8-30 a.m. on 23/05/2009 and subsequently killing them and throwing their dead bodies at Lavvala area and claiming it an encounter as illegal, arbitrary and violative of Art. 21 of the constitution of India and pass..”

2. Heard Sri R.Mahadevan, learned counsel for the petitioner and Sri S.Rahul Reddy, learned Special Government Pleader attached to the office of the learned Additional Advocate General for the State of Telangana appears for respondent Nos.1 to 4.

3. **Brief facts of the case:**

3.1 The petitioner averred that he is a President of Andhra Pradesh Civil Liberties Committee and two Maoist Leaders namely Patel Sudhakar Reddy and Venkataiah were picked-up by the S.I.B. Police at Shirdi at about 8-30 a.m. on 23.05.2009 and detained them illegally and subsequently they were killed

in cold blood by the S.I.B. Police, Hyderabad and their dead bodies were thrown in Lavvala Forest Area, Tadvai Mandal, Warangal by claiming it as an encounter on 24.05.2009 as usually done by the police and the same is contrary to the Judgment passed by the erstwhile High Court of Judicature, Andhra Pradesh at Hyderabad in Writ Petition No.15419 of 2006 dated 06.02.2009. Therefore, the petitioner sought direction to respondent authorities to prosecute and punish the erring police officials who are involved in the said encounter.

4.1 Respondent No.3 filed counters affidavit on his behalf and on behalf of respondent Nos.1, 2 and 4 denying the averments made by the petitioner *inter alia* contending that on 23.05.2009 the Station House Officer (SHO), Tadvai Police Station on receipt of reliable information that the outlawed underground extremists belonging to CPI (Maoist) were gathering in Lavvala forest and they were armed with sophisticated, deadly and prohibited bore weapons and improvised explosive devises and preparing to attack the police station or police parties, SHO, Tadvai Police Station informed the same to his superior officials rushed to Lavvala forest area along with adequate force to prevent a cognizable offence under Section 149 of Cr.P.C. On

24.05.2009 at about 5-30 a.m. while the police party was searching in the Lavvala Forest by taking all precautions from being ambushed by the Maoists, they noticed a group of 20-25 extremists clad in olive green dress and armed with weapons, and the SHO, Tadvai P.S. questioned them to disclose their identity and ordered them to stop moving further. Meanwhile, without any provocation from the side of police party, the extremists opened indiscriminate fire with an intention to kill the police personnel and to snatch their weapons. Police party warned the extremists to stop firing and surrender, in spite of the same, they continued firing.

4.2 It is further averred that as there was no other option, on the direction of the SHO, Tadvai P.S., police party also opened fire against the miscreants with an intention to disarm and restrain them from firing. After firing was stopped from the extremists' side, police party also stopped firing. On search of area, police party found two dead bodies of male extremists and sophisticated fire arms and ammunition as well as cash of Rs.20,000/- at the scene of offence and the police learnt that other miscreants escaped from the scene as a part of tactics of guerrilla war. From the clues available at the scene, the

miscreants were identified as members of outlawed Maoist naxal group but correct identity of deceased was not established immediately.

4.3 Thereafter the S.H.O., Tadvai P.S. sent a written report about the occurrence to the police station and the same was registered as a case in Crime No.34 of 2009 under Sections 148, 307 r/w. 149 IPC and Section 24(1)(B) & (C), 27 of Armed Act and Section 174 r/w. 176 Cr.P.C. of Tadvai P.S. on 24.05.2009. During the inquest, the deceased were identified by the ex-underground cadre of the CPI Maoist as Patel Sudhakar Reddy and Kanugula Venkataiah @ Prasanna @ Shankar @ Kumar @ Venkati @ Bhujanga Reddy and the postmortem examination was conducted over the dead bodies of the deceased persons by the Medical Officer, Government Community Health Centre, Eturunagaram. Thereafter, as per the directions of erstwhile High Court of Judicature of Andhra Pradesh at Hyderabad, re-postmortem was conducted over the dead body of Patel Sudhakar Reddy and since the dead body of Kanugula Venkataiah was already taken by his family members, re-postmortem examination was not conducted.

4.4 It is further averred that Patel Sudhakar Reddy is accused in Crime No.487 of 199 of S.R.Nagar Police Station, Hyderabad, as he along with other extremists conspired and killed Shri C.Umesh Chandra, IPS in Hyderabad City on 09.09.1999. Patel Sudhakar Reddy is accused No.3 in Crime No.42/2000 of Ghatkesar Police Station, Nalgonda District, as he along with 15 others of CPI (ML) Maoists blasted land mines on the National Highway near Ghatkesar ROB and killed Shri Alimineti Madhava Reddy, former Home Minister of united Andhra Pradesh. Along with the said cases, he is the accused in several other landmine blasting cases namely Crime No.57 of 1999 of Veepanagandla Police Station, Mahabubnagar District, Crime No.69 of 2001 of Bandlamotu Police Station, Crime No.59 of 2003 of Thirumala-II Town Police Station of Chittoor District, and Crime No.83 of 2007 of Kota Police Station.

4.5 It is further averred that Patel Sudhakar Reddy is also accused in several Police Stations attack cases namely Crime No.3 of 1999 of Bommalaramaram Police Station, Nalgonda District, Crime No.57/2000 of Thirumalagiri Police Station, Nalgonda District, Crime No.28 of 2001 of Yerragondapalem Police Station, Prakasham District, Crime No.71 of 1998 of

Yadagirigutta Police Station, Nalgonda District. Patel Sudhakar Reddy is also accused in Crime No.106 of 1986 of Eturunagaram, Warangal District, Crime No.1 of 1992 of Investigation Cell, Intelligence, Andhra Pradesh, Hyderabad, Crime No.15/2000 of Peddakothapalli Police Station, Mahaboobnagar District, Crime No.4 of 2001 of Achampet Police Station, Crime No.65 of 2006 of Achampet Police Station, Crime Nos.70 and 73 of 2007 of Amrabad Police Station, Mahabubnagar District, Crime No.41 of 2007 of Lingala Police Station, Crime Nos.90 and 91 of 2007 of Amrabad Police Station, Crime No.91 of 2007 of Amrabad Police Station, Crime Nos.52 and 53 of 2007 of Lingala Police Station, Crime No.1 of 2008 of Amrabad Police Station, Crime No.2 of 2008 of Siddapur Police Station, Crime No.2 of 2008 of Amrabad Police Station and Crime No.58 of 2008 of Amrabad Police Station.

4.6 It is further averred that the respondents specifically denied that the deceased persons were picked up from Shirdi, tortured, killed them and thrown their dead bodies into forest. The incident leading to the death of Patel Sudhakar Reddy and Kanugula Venkataiah had occurred when they opened fire

against the police personnel, police opened fire against the extremists in self defense.

5. Submissions of learned counsel for the petitioner:

5.1 Learned counsel for the petitioner contended that police officials killed the victims by way of encounter on 24.05.2009 and thrown their dead bodies in the forest and respondent No.4 ought to have registered a case against the erred police officials. However, respondent No.4 has not taken any steps to register the crime and not disclose the particulars of the police personnel who have committed the offence and the respondent authorities ought to have followed the guidelines framed by the larger bench judgment of High Court in W.P.No.15419 of 2006 dated 06.02.2009.

6. Submissions of learned Government Pleader:

6.1 *Per contra*, learned Government Pleader vehemently contended that the deceased Patel Sudhakar Reddy and Kanugula Venkataiah are extremists and they along with others were involved in several criminal cases. After coming to know about the movement of the extremists, on 24.05.2009 the police party was searching in Lavvala forest by taking all precautions

from being ambushed by the Maoists. However, the extremists started firing against the police party and in spite of they warned to stop them and to surrender, they continued firing. Therefore, after taking directions of the S.H.O., Tadvai Police Station, police party opened fire against the miscreants with an intention to disarm and restrain them from firing and the police party only to safeguard their lives started firing against the extremists. He further contended that aggrieved by the Order dated 06.02.2009 in W.P.No.15419 of 2006, the Government filed Special Leave Petition (Civil) No.5646 of 2019 and the same was disposed of on 18.07.2019 taking into consideration of the principle laid down in ***People's Union for Civil Liberties and another vs. State of Maharashtra and others***¹. He further submitted that the police have already filed final report in Crime No.34 of 2009.

Analysis:

7. We have considered the rival submissions made on both sides and have perused the record.

8. The grievance of the petitioner as set out in the writ petition is that the S.I.B police, Hyderabad, picked up Patel

¹ (2014) 10 SCC 635

Sudhakar Reddy and Kanugula Venkataiah on 23.05.2009 at Shirdi and detained them. Subsequently, the police personnel killed them in an encounter on 24.05.2009 at Lavalla forest area, Tadvai Mandal, Warangal.

9. The respondents have filed the counter wherein it has been stated that on 23.05.2009, on receipt of reliable information that outlawed underground extremists belonging to CPI (Maoist) have gathered in Lavvala forest and were armed with sophisticated deadly and prohibited bore weapons and improvised explosive devises. The aforesaid underground extremists have prepared a plan to attack the police station or police parties. Thereupon, on receipt of the said information the Station House Officer, Tadvai Police Station, along with adequate force reached Lavvala forest area and was carrying out the search in early hours of 24.05.2009. The police party of Station House Officer, Tadvai Police Station, noticed a group of 20-25 extremists clad in olive green dress and armed with weapons. Thereupon, the Station House Officer, Tadvai Police Station, asked them not to move further.

10. Thereupon, without any provocation from the police party, the extremists opened indiscriminate fire with an intention to

kill the police personnel and to snatch their weapons. Thereupon, the police also opened fire in self-defence. After the exchange of fire, the police party found sophisticated fire arms and ammunition as well as cash of Rs.20,000/- at the scene of offence. A written report about the occurrence of the incident was sent to the police station and the same was registered as a case in Crime No.34 of 2009 under Sections 148, 307 read with Section 149 IPC and Sections 24(1)(B) & (C) of the Arms Act and Section 174 read with 176 of Cr.P.C of Tadvai Police Station on 24.05.2009 and the same is pending.

11. As per the material on record, Patel Sudhakar Reddy is one of the accused persons who was involved in killing of Sri C.Umesh Chandra, IPS officer, on 09.09.1999 in Hyderabad. He was also accused in killing of Shri Alimineti Madhava Reddy, the then Home Minister of united Andhra Pradesh. Along with the said two cases, there were several criminal cases pending against the deceased in various police stations in the States of Telangana and Andhra Pradesh.

12. The official respondents have filed the counter affidavit sometime in the month of April, 2015. The petitioner has not chosen to file a reply to controvert the facts stated by the official

respondents in the counter affidavit. There is no material on record to indicate that Patel Sudhakar Reddy and Kanugula Venkataiah were arrested from Shirdi and were brought to Lavalla forest area, Tadvai Mandal, Warangal. The issue whether or not the aforesaid persons were killed in an encounter is an issue of fact, which cannot be adjudicated in a writ petition in the absence of any rebuttal from the petitioner.

13. For the aforementioned reasons, we do not find any merit in the writ petition.

14. Accordingly, the writ petition is dismissed. No costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

SD/- N. SRIHARI
ASSISTANT REGISTRAR
SECTION OFFICER

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To,

1. One CC to SRI R.MAHADEVAN, Advocate [OPUC]
2. Two CCs to GP FOR HOME, High Court for the State of Telangana at Hyderabad [OUT]
3. Two CCs to ADDL ADVOCATE GENERAL, High Court for the State of Telangana at Hyderabad [OUT]
4. Two CD Copies

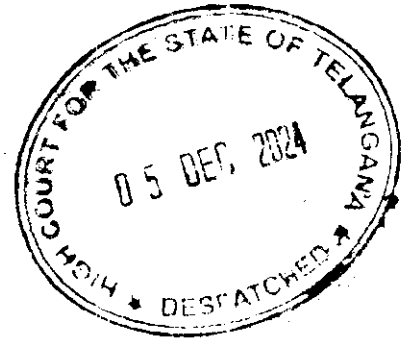
BSR

LS

KoP

HIGH COURT

DATED: 05/11/2024



ORDER

WP.No.10419 of 2009

**DISMISSING THE WRIT PETITION,
WITHOUT COSTS**

8 Copies
[Signature]
29/11/24