

HONOURABLE SRI JUSTICE ASHUTOSH MOHUNTA

WRIT PETITION No. 9141 OF 2011 .

DATED 29th April, 2011

BETWEEN

R.Siva Prakash Reddy

...Petitioner

And

The Superintendent of Police, Kadapa, YSR District
and ors.

....Respondents.

HONOURABLE SRI JUSTICE ASHUTOSH MOHUNTA

WRIT PETITION No.9141 of 2011

ORDER:

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Heard the learned Counsel for the petitioner and the learned Advocate General appearing for the respondents.

This Writ Petition is filed questioning the action of the first respondent in withdrawing the security of gunmen (PSOs) 1+1 provided to the petitioner vide proceedings C.No.68/XI-SB/KDP/2011 dated 29.03.2011 and for a consequential direction to continue the security of gunmen to the petitioner.

The petitioner claims to be the resident of Proddatur town and an active member of a political party. It is stated that he had been elected as a Municipal Councilor for Ward No.25 of the Proddatur Municipality and thereafter was elected as a Vice

Chairman of the Proddatur Municipality and served for the years 2000-2005. It is stated that he also worked as an acting chairman for the Proddatur Municipality. It is further stated that he was the staunch follower of one Sri Varadarajula Reddy. However, after 2004 Assembly elections, due to various political reasons, he was declared as rebel candidate in the Congress party and subsequently joined Telugu Desam Party. According to him, as the Ex. MLA Sri Varadarajula Reddy was defeated in the assembly elections held in the year 2009, his relatives and associates have developed personal grudge against him and on account of the factions in the area, there is imminent danger to his life and limb from the rival group of Sri Varadarajula Reddy apart from other various other extremists. The petitioner narrated one incident pertaining to seizing of bombs from the village of Ex.MLA Sri Varadarajula Reddy, who according to the petitioner, has engaged hired assassins for his elimination. It is further stated that as there is threat to his life, the first respondent provided gunmen 1+1 in the month of September, 2010. By impugned proceedings, the same was withdrawn on the ground that no threat perception exists to continue the security.

In the counter affidavit filed on behalf of the first respondent, it is stated that the petitioner is involved in Crime No.32/2007 registered under Sections 147, 148, 324, 307 r/w 149 IPC on the file of the I town Police Station, Proddatur, and obtained stay order for trial from this Court; that his opponent Palleti Prabhakar Reddy and his henchmen tried to eliminate the petitioner by giving contract to the notorious hired assassin, namely, Ragatipalli Sreenadha Reddy of Dharmavaram and the same is subject matter of case in Cr.No.132 of 2010 registered under Sections 307 and 120(B) IPC r/w Section 5 of Explosives Act and Section 24(1b) of Arms Act. It is stated that the security was provided to the petitioner based on the application submitted by him on 14.07.2010 temporarily in the

month of September, 2010 as a measure of immediate relief. It is further stated that the Security Review Committee comprising of seven topmost officials reviewed the continuation of security provided to the petitioner after calling for the latest perception report from the first respondent and decided to withdraw the same on the ground that the police have arrested the criminal gang which was engaged for the elimination of the petitioner and legal action was already taken to neutralize the threat perception to him.

Perused the case file.

The State Government issued G.O.Rt.No.655 dated 13.03.1997 laying down guidelines for providing security to private persons. By way of the said G.O., persons were divided into 6 categories. The petitioner falls under the category of "private persons". Clause (3) of the G.O. enumerated the general guidelines for providing security and it is envisaged therein that in case of a private person, individual security on threat perception can be provided only on advance payment basis subject to the availability of manpower with the Unit Officer concerned. Sub-clauses (6) and (7) of clause (C) of the said G.O. read as under:

"a person having criminal background should not be given security except when the criminal case is closed or acquitted against him. Further, in case there is a genuine threat from naxalites of PWG or in case he is holding public office, then specific permission from IGP Intelligence, who is the Nodal authority should be taken before providing him. In respect of factional groups, security should not be given to the affected parties since provision of security to one faction and ignoring requests of other faction is not proper and wherever it is felt necessary to give necessary to give security to such persons, the reasons for doing so shall be recorded by the competent authority."

Clause (E) provides that a Security Review Committee comprising Joint director, S.I.B.; Deputy Director, S.I.B.; D.I.G (Security), D. I. G. (Intelligence), Joint Secretary (Protocol) and

I.G.P. (Grey Hounds) as members and I.G.P. (Intelligence) as Nodal Authority will meet twice a year in order to review the threat perception.

From the facts borne out by the record, it is clear that the petitioner claims to be belonging to a faction in the area and was involved in one or two criminal cases. The guidelines contained in the abovementioned G.O. clearly envisage that persons with criminal background and those, who are part of factional groups, are generally not entitled to personal security. The exceptions carved out under the said G.O. are that if criminal cases were closed resulting in the acquittal of the person or when there is a genuine threat from the naxalites, then security should be provided to such persons. In the impugned order, it is specifically stated that on a review of threat perception, it is found that the petitioner is not having any threat from his rival, as the faction is dormant in the Proddatur area and that after taking legal action against the criminal gang, there are no warnings against the petitioner. In as much as there was a serious threat perception in 2010, which necessitated the State to provide personal security to the petitioner, and on that alone, he cannot claim continuance of the same without regard to the changed circumstances.

This Court in the case of *Katasani Rami Reddy Vs. Govt. of AP*, (1998 CrL.J. 3897), while dealing with the similar and identical issue, held as under:

“whether security is to be provided to the individual or not by the State is dependent upon the threat perception with regard to that individual, and what is the amount of threat and whether the threat is real or imaginary, and in case there is threat, what is the degree of the threat to an individual's life, cannot be considered either by this Court or by any other agency other than the police force itself. Police is the competent authority and it is equipped with facilities like intelligence services to come to a conclusion about threat perception of an individual. Therefore, whenever an application is made before a District

Superintendent of Police by an individual for providing personal security to him, while disposing of such an application the District Superintendent of Police should invariably record his finding with regard to the threat perception. Once such a finding is recorded, it will be open for such an individual to agitate the matter further, if the concerned Superintendent of Police does not come to correct finding with regard to threat perception. This will also enable the District Superintendent of Police to decide as to how much personal security is needed by an individual. Otherwise, unless he knows the level of the threat he cannot be able to decide the matter. It is also well known that, some times threat to one's life can remain life long depending upon the circumstances and the incidents which are relatable with respect to such an individual, but some times threat to one's life may be temporary and in such a case continuous security may not be needed. Therefore, whenever personal security is provided to a person it must be constantly reviewed by the concerned Superintendent of Police and when on the basis of information available with him he genuinely feels that the threat has vanished, he may recall the security”

In the counter affidavit it is specifically pleaded that the local police have already arrested the criminal gang which was engaged for the elimination of the petitioner and legal action was already initiated to neutralize the threat perception to the petitioner. Except one or two incidents as alleged by the petitioner in the affidavit filed in support of the Writ Petition and admitted in the counter affidavit filed by the respondent, after neutralizing the situation, the Review Security Committee thought it fit in its wisdom to withdraw the security provided to the petitioner.

For the reasons narrated hereinabove, I am of the opinion that the respondents are justified in coming to the conclusion that the threat perception against the petitioner does not subsist warranting continuance of the security gunmen to him.

Pertinent to note, though Article 21 of the Constitution of India ordains that no person shall be deprived of his life or personal liberty except according to the procedure established by law, no

person can claim as of right that the State should provide him with personal security to ensure that his life is protected. Any police force or any law enforcing agency is primarily meant for ensuring rule of law and law and order for the welfare of the public at large. When there is a conflict between social needs and the individual needs, the former gets priority.

In that view of the matter and for the foregoing discussion, I do not see any merit in the Writ Petition.

The Writ Petition is accordingly dismissed. There shall be no order as to costs.

JUSTICE ASHUTOSH MOHUNTA

Dated 29th April, 2011.
Msnr.