A STATE OF KARNATAKA

v.

THE REGISTRAR GENERAL HIGH COURT OF KARNATAKA

AUGUST 10, 2000

B [K.T. THOMAS AND R.P. SETHI, JJ.]

Judgment—Dealing with subjects outside lis—High Court while refusing leave to appeal against acquittal of accused in a case u/s. 307 IPC making sweeping remarks against present criminal law administration and particu-
C *larly against police department of State and directing Home Secretary and Home Minister of the State to report to it the reaction of Government to the observations made in the judgment—Held, judgments and orders should confine to facts and legal points involved in particular cases—Observations made by High Court are absolutely uncalled for on the facts of the case—*
D *Directions issued to the Home Secretary and the Home Minister are set aside—Strictures.*

A Division Bench of the Karnataka High Court, while refusing leave to appeal against acquittal of the accused in a criminal trial for offences including the offence under s.307 I.P.C., made sweeping remarks on the
E **present system of criminal law administration and particularly against the police department of the State. The subjects referred to by the High Court in its judgment were (1) murders committed with impunity, (2) the increase in cases involving atrocities against women, (3) harassment inflicted on young married women, including "bride burning", (4) molestation and**
F **rape of girls and young women. The High Court pointed out towards the high percentage of acquittal (i.e. 96.4%) in criminal trials and held the investigating agencies, namely, the police department "responsible" to a very large extent for the deplorable state of affairs and gave directions to the Secretary to Government (Home) and the Home Minister of the State to report to it as to what was the reaction of the Government to the**
G **observations made in the judgment. Aggrieved, the State Government filed the present appeal.**

It was contended for the appellant-State that the observations, particularly the disparaging remarks made against the police department of
H **the State as a whole were absolutely unnecessary in the instant case and**

there was no material available on record for the Court to record such findings. A

Disposing of the appeal, this Court

HELD : 1.1. The High Court went outside the scope of the lis before it and made observations which are not in tune with the perceptions of judicial exercise. The High Court dealt with subjects which are totally ungermane and far beyond the scope of the present case. The observations made by it are absolutely uncalled for on the facts of the case. [389-B] B

1.2. Judicial decorum requires that judgments and orders should confine to the facts and legal points involved in the particular cases which Judges deal with. May be, sometimes Judges would, perhaps wittingly or even unwittingly, just outside the contours of the litigation, but even such overlappings should be within bounds of propriety and sobriety. But there is no justification for traversing so far beyond the canvass as was done by the High Court in this case or to cover areas which are grossly extraneous to the subject matter of the case. The problems posed by the High Court have already engaged the attention of the Law Commission. On more than one occasions the Commission has submitted its report for consideration by Parliament. But putting the blame largely on the police force of the State for all the ills pointed out by the High Court, without data or material or evidence in this case, is not a course which can be approved. Demoralisation of departments would badly erode the already impaired efficiency of our forces. Judgment should confine to the scope of the case.[389-D-E] C D E

State of Uttar Pradesh v. *Mohammad Naim*, AIR (1964) SC 703 = [1964] 2 SCR 363; *R.K. Lakshmanan* v. *A.K. Srinivasan & Anr.*, [1976] 1 SCR 204 = AIR (1975) SC 1741; *Niranjan Patnaik v. Sashibhushan Kar & Anr.*, [1986] 2 SCC 569 = AIR (1986) SC 819 and *S.K. Viswambaran* v. *E.Koyakunju & Ors.*, [1987] 2 SCC 109 = AIR (1987) SC 1436, relied on. F

1.3. By the direction of the High Court, the Home Secretary and the Home Minister are compelled to react openly to the observations made in the judgment and report to the High Court on such reactions. Such a direction is nothing but an exercise in redundancy. The directions issued to the State Public Prosecutors as well as to the Home Secretary and the Home Minister are, therefore, set aside. [387-B; 388-G; 390-F] G H

A CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 652 of 2000.

From the Judgment and Order dated 18.6.99 of the Karnataka High Court in Crl. A. No. 319 of 1999.

B N. Ganpathy for the Appellant.

The Judgment of the Court was delivered by

THOMAS, J. Delay condoned.

C Leave granted.

A Division Bench of Karnataka High Court went outside the scope of the lis before it and made certain observations which are not in tune with the perceptions of judicial exercise. Why they did so in this case is beyond comprehension. State of Karnataka, unable to abide by the directions issued as per D the order, has filed this appeal by special leave. For disposal of this appeal we did not find any necessity to issue notice to the sole respondent (Registrar General of the High Court of Karnataka) as he would have nothing to say about the impugned directions. So we propose to dispose of the matter without bringing the respondent to this Court.

E How the above situation reached can be summarized thus:

Seven persons were prosecuted in a Sessions Court for various offences, the serious-most among which was the offence under Section 307 of the IPC. After the trial the Sessions Judge acquitted all the accused. The testimony of the eye witnesses examined by the prosecution was not believed by the Ses- F sions Judge. At the same time he frowned at the investigation, as is being done in many of the judgments ending in acquittal. The delay in dispatching the FIR to the Magistrate was also highlighted in the judgment of the Sessions Court.

The State of Karnataka filed a petition for leave to appeal against the said G order of acquittal. The Division Bench of the High Court, while refusing leave, made a departure from the precedents and issued an unusual direction to the State Public Prosecutor like this:

> "We direct the learned SPP to forward a copy of this order to the Secretary to Government (Home) as also to the Honourable Home H Minister both of whom shall acknowledge the receipt of the same and

shall report back to this Court within a period of two months as to what precisely is the reaction of the Government to the observations of this High Court."

The Home Secretary and the Home Minister of the State are now compelled to react openly to the observations made in the judgment and to report to the High Court on such reactions. It is necessary to extract the observations made by M.F. Saldhana, J, who spoke for the Division Bench. The first facet of the observations is the following:

"This Court has had occasion to deal with a large number of appeals filed against orders of acquittals. In case after case, it is noticed that it is principally because of poor investigation followed up by a total lack of interest in the conduct of the prosecution that has resulted in the accused being acquitted. Murders are committed with impunity and the other set of cases of which we need to take very serious note relating to atrocities against women where even the reported number of cases has sharply increased. We have come across a series of horrifying incidents where young married women were harassed, tortured and set on fire, another line of cases where girls and women have been molested, sexually attacked and raped. String of acquittals in all these cases which are as high as 96.4 per cent only because the requisite evidence and the evidence of the quality that the Court expects has not been forthcoming. The investigating agencies, namely, the Police Department are responsible to a very large extent for this deplorable state of affairs."

Learned counsel for the State made a scathing onslaught on those observations, particularly the disparaging remarks made against the police department of the State as a whole and contended that they are absolutely unnecessary in the present case, apart from being unsupported by any material whatsoever. He submitted that there was no material available on record for the Court to reach such omnibus findings. Learned Judge went on to observe further as follows:

"Time is of the essence as far as investigation of criminal cases are concerned and consequently, it is equally important that apart from the speed with which the Police act, that the investigation has got to be done with a high degree of efficiency and professionalism. All these

A factors are lacking in the majority of investigations. There is something seriously wrong and we put it down to the fact that obviously on all sorts of political considerations, the recruitment process has been diluted to point of induction into the force of persons who should not have been there at all. It goes without saying that when this happens, one can never expect efficiency. The manner in which the recruitments B are done and more importantly the considerations leave much to be desired and if the law and order machinery on which crores of rupees of tax payers money is being spent is at all to justify its existence, the Government will have to take serious note of the observations and rectify the state of affairs."

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After making some more sweeping remarks on the present system of criminal law administration the Bench said the following also:

"Similarly, the principal disease that has infected the criminal justice system in the State is the cheerful manner in which the Court is D informed that the vital witnesses are hostile who is responsible for this is not difficult for the Court to infer, the moment the question is asked as to who is the beneficiary. The investigating Agency also owes a duty to ensure that the vital witnesses are present and that they produce the type of evidence which is expected of them. This aspect of the matter E will require very serious attention if at all the State is concerned about rectifying the present state of affairs which is assuming disastrous proportion."

Learned counsel for the State was quite right in contending that it was not the occasion for learned Judges of the High Court for giving vent to their F general apathy towards the present system of administration of criminal justice. The direction that the Home Minister and the Home Secretary of the State shall report to the High Court regarding their reaction towards the observations made in the judgment is nothing but an exercise in redundancy, for, their reaction cannot be different from the views expressed by the Judges themselves. How could they be different, as it is unexceptional that the system should improve. G The problems posed by the Judges have already engaged the attention of the Law Commission. On more than one occasions the Commission has submitted its report for consideration by Parliament. But putting the blame largely on the police force of the State for all the ills pointed out by the learned Judges, without data or material or evidence in this case, is not a course which can meet H with our approval.

Learned Judges pointed to subjects which are unfortunately not connected with this case. Those are- (1) murders committed with impunity, (2) the increase in cases involving atrocities against women, (3) harassment inflicted on young married women including "bride burning", (4) molestation and rape of girls and young women. We have already extracted a gist of the facts of this case. None of the fields to which learned Judges pointed their fingers would cover the facts of this case. Hence learned Judges dealt with subjects which are totally ungermane and far beyond the scope of this case as though it was presentation of a paper in a seminar. Why should the Home Minister and the Home Secretary react to the observations which are absolutely uncalled for on the facts of this case.

Judicial disposition is definitely different from a paper presented for seminar discussion. Nor can it be equated with a dissertation. Judicial decorum requires that judgments and orders should confine to the facts and legal points involved in the particular cases which Judges deal with. May be, sometimes Judges would, perhaps wittingly or even unwittingly, just outside the contours of the litigation, but even such overlappings should be within bounds of propriety and sobriety. But there is no justification for traversing so far beyond the convass as was done by the High Court in this case or to cover areas which are grossly extraneous to the subject matter of the case. If the subordinate Courts are also to be tempted and encouraged to follow suit by travelling far outside the scope of the lis the consequences would be far too many. Demoralisation of departments would badly erode the already impaired efficiency of our forces. It is time to remind ourselves once again that judgment should confine to the scope of the case.

In the *State of Uttar Pradesh* v. *Mohammad Naim,* AIR (1964) SC 703 = [1964] 2 SCR 363, a four Judge Bench of this Court heard the grievance of a State regarding certain sweeping remarks made by a learned Judge of the High Court who dealt with the case of a police officer. The Judge of the High Court had stated in his Judgment that "(a) If I had felt that with my lone efforts I could have cleaned this augean stable, which is the police force, I would not have hesitated to wage this war single handed. (b) That there is not a single lawless group in the whole of the country whose record of crime comes anywhere near the record of that organised unit which is known as the Indian Police Force. (c) Where every fish barring perhaps a few stinks, it is idle to pick out one or two and say that it stinks."

S.K. Das, J. (as he then was) speaking for the four Judge Bench ex-

A pressed complete disapproval of those impugned observations and reminded thus:

> "It is not infrequent that sweeping generalisations defeat the very purpose for which they are made. It has been judicially recognised that in the matter of making disparaging remarks against persons or au-
B thorities whose conduct comes into consideration before courts of law in cases to be decided by them, it is relevant to consider (a) whether the party whose conduct is, in question, is before the court or has an opportunity of explaining or defending himself; (b) whether there is evidence on record bearing on that conduct justifying the remarks; and
C (c) whether it is necessary for the decision of the case, as an integral part thereof, to animadvert on that conduct. It has also been recognised that judicial pronouncements must be judicial in nature, and should not normally depart from sobriety, moderation and reserve."

During the 36 years which elapsed thereafter this Court has reiterated
D those words on different occasions.

R.K. Lakshmanan v. *A.K. Srinivasan & Anr.*, [1976] 1 SCR 204 = AIR (1975) SC 1741, *Niranjan Patnaik* v. *Sashibhushan Kar & Anr.*, [1986] 2 SCC 569 = AIR (1986) SC 819, *S.K. Viswambaran* v. *E. Koyakunju & Ors.*, [1987] 2 SCC 109 = AIR (1987) SC 1436.
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It would have been very appropriate if learned Judges of the Division Bench who rendered the impugned order would have reminded themselves of the above caution administered by the apex court more than three decades ago.

For the aforesaid reasons we have to interfere with the impugned order.
F We hereby set aside the directions issued to the State Public Prosecutor as well as to the Home Minister and Home Secretary of the State.

Appeal is disposed of accordingly.

R.P. Appeal disposed of.