

NADELLA VENKATA KRISHNA RAO

A

v.

STATE OF ANDHRA PRADESH

December 15, 1977

[V. R. KRISHNA IYER AND V. D. TULZAPURKAR, JJ.]

B

*Sentencing—Purpose and justification of a sentence.*

Appellant accused No. 2 was charged along with A1 and A3 u/ss. 489A and 489D I.P.C., but found guilty and convicted u/ss. 489C and 489D, and sentenced to ten years and seven years under the said counts, the sentences to run concurrently. The Andhra Pradesh High Court dismissed the appeal preferred against it and confirmed the sentence.

Dismissing the appeal by special leave and reducing the sentence to five years on each count, the Court

C

HELD : Harsh and prolonged incarceration may sometimes be self-defeating. The most hurtful part of imprisonment is the initial stage when a person is confined in person. Thereafter he gets sufficiently hardened and callous with the result that by the time he is processed through the years inside the prison he becomes dehumanized. The accent must therefore be more and more on rehabilitation rather than retributive punitivity inside the prison. [403 G-H]

U.N. Document A/COF/76/1 Annex I.A. Items 38 and 59 quoted with approval.

D

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 505 of 1977.

Appeal by Special Leave from the Judgment and Order dated 25-2-77 of the Andhra Pradesh High Court in CrI. A. No. 14 of 1976.

E

*Frank Anthony and B. Kanta Rao* for the Appellant.

*P. P. Rao, G. N. Rao and L. J. Vadakara* for the Respondent.

The Order of the Court was delivered by

KRISHNA IYER, J.—Leave is granted on the question of sentence only.

F

This is a case where the accused have been acquitted of counterfeiting but have been convicted of possession of materials for counterfeiting. It makes little difference from the point of view of guilt and injury to society. The trial court awarded a sentence of 10 years rigorous imprisonment and that has been affirmed by the High Court. We think that health and prolonged incarceration may sometimes be self-defeating. The most hurtful part of imprisonment is the initial stage when a person is confined in prison. Thereafter he gets sufficiently hardened and callous with the result that by the time he is processed through the years inside the prison he becomes more dehumanised. The whole goal of punishment being curative is thereby defeated. The accent must therefore be more and more on rehabilitation, rather than retributive punitivity inside the prison. In this context, it is helpful to remember items 58 & 59 in the rules applicable to prisoners under sentence framed as the Standard Minimum Rules

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H

A for the Treatment of Prisoners (U.N. Document A/COF/76/1, Annex. 1.A.) :

B 58. The purpose and justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life.

C 59. To this end, the institution should utilize all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them according to the individual, treatment needs of the prisoners.

D Giving anxious consideration to the need for rehabilitation and deterrence we consider that the prisoner in this case, who is the appellant before us may serve a sentence of five years which may be long enough for correctional treatment, at the same time not unduly long to be regarded as repugnantly harsh. We dare say that during this period the State jail authorities will take care to subject the appellant to humanising treatment so that when he comes out he will desist from criminality and turn a new leaf.

E We reduce the sentence awarded by the courts below to five years rigorous imprisonment on both counts which are to run concurrently. Subject to the above, the appeal is dismissed.

S.R.

*Appeal dismissed.*