

# Raguramsharma vs C Thulsi on 5 February, 2020

**Bench: Uday Umesh Lalit, Indu Malhotra**

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.230 OF 2020  
(Arising out of SLP (Crl.) No.11726 of 2019)

RAGURAMSHARMA & ANR.

Appellants

VERSUS

C. THULSI & ANR.

Respondent

O R D E R

Leave granted.

This appeal arises out of the judgment and order dated 30.09.2019 passed by the High Court of Judicature at Madras in Criminal Revision Case No.978 of 2019.

The present proceedings arise out of FIR No.114 lodged on 03.05.2019 with Police Station Archirapakkam, District Kancheepuram, in respect of offences punishable under Sections 428/429 IPC, 11(1)(a), 11(1)(b), 11(1)(d) and 11(1)(e) of the Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as “the 1960 Act”) The basic allegations in the FIR were that the accused named Thulasi, Veeranam, Uvarikalai, Pavunraj, Pandi and Ramasamy were found to be transporting 18 buffaloes and 19 bulls in a truck; that, all the sides of the truck were closed 18:11:45 IST Reason:

air-tight so much so that the cattle could not breathe properly; that the animals were not being provided with sufficient food and water or any medical facility or first- aid; and, that the animals were being transported unauthorizedly violating the governing norms and principles. Out of 37 animals, one died of suffocation soon after the vehicle was intercepted. After the lodging of the FIR and registration of the crime, the custody of the cattle was handed over to the present appellants.

The prayer made by the present respondent-Thulasi for interim custody of the cattle was allowed by the High Court.

While granting interim custody, following conditions were imposed by the High Court:

“6. Taking into consideration the facts and circumstances of the case, this Court is of the view that interim custody of the cattle shall be given to the petitioner on the following conditions:

(i) The petitioner shall appear before the trial Court and produce the original bills to prove his ownership.

(ii) The petitioner is directed to file an undertaking that the cattle will be maintained properly and will not be treated cruelly and will be transported in a safe manner and that they will be used only for agricultural purpose and if necessary they will be produced before the trial Court as and when required by the trial Court, during trial.

(iii) The petitioner is also directed to take individual photographs of the cattle and produce the same before the trial Court.

(iv) Thereafter, the Judicial Magistrate, Maduranthagam, Kancheepuram District, shall return the interim custody of the cattle to the petitioner.” In terms of the directions issued by the High Court, the custody of the cattle was required to be handed over to the accused, at which stage the appellants who were not parties to the proceedings before the High Court, approached this Court by way of present appeal.

While issuing notice, interim stay of the directions issued by the High Court was granted by this Court. Thereafter, the concerned parties have appeared and pleadings were exchanged.

By way of Criminal Miscellaneous Petition No.194221 of 2019, copy of FIR No.207 of 2019 dated 04.09.2019 lodged with Police Station Padalam, District Kancheepuram under Sections 429 IPC, 11(1)(a), 11(1)(b), 11(1)(d) and 11(1)(e) of the 1960 Act, was placed on record. According to said FIR, in another incident involving very same accused, 47 cattle were found to have been put in a container lorry and were being transported in similar fashion. Out of said 47 animals, 6 cows had died while they were being transported.

Ms. Sonia Mathur, learned Senior Counsel invited our attention to Rule 56 of the Transport of Animal Rules, 1978, which is to the following effect:

“Rule 56. When cattle are to be transported by goods vehicle the following precautions are to be taken namely:

(a) Specially fitted goods vehicles with a special type of tail board and padding ground the sides should be used.

(b) Ordinary goods vehicles shall be provided with anti-slipping material, such as coir matting or wooden board on the floor and the superstructure, if law, should be raised.

(c) no goods vehicle shall carry more than six cattle.

(d) each goods vehicle shall be provided with one attendant.

(e) while transporting, the cattle, the goods vehicle shall not be loaded with any other merchandise; and

(f) to prevent cattle being frightened or injured, they should preferably, face the engine.” Thus, a container or a vehicle could not have carried more than six cattle but as the facts indicate, the number of animals which were transported was 37. The governing norms and principles were thus violated. It does not appear to be a single or a solitary incident. In subsequent FIR No.207 dated 04.09.2019, as against permissible norm of six cattle, the number of animals which were being transported was 47. The fact that this had adverse impact on the health of cattle is also clear inasmuch as in the present case, one buffalo died while being transported and in the subsequent case, six animals lost their lives.

We are not arriving at any conclusions as regards the basic facts and the allegations levelled against the accused but if we go by the allegations in the FIR, the accused were prima facie guilty of causing cruelty to the animals.

In such a case, the interim custody of the animals ought not to be handed over to the accused. If the accused are finally found to be not guilty then the issue of custody of the animals will logically be dealt with in accordance with the concerned Rules or Regulations but at this stage the accused are definitely not entitled to interim custody of the cattle.

We, therefore, allow this appeal, set-aside the order passed by the High Court and direct as under:

(a) Subject to being satisfied about the profile of the present appellants as well as after ensuring about the identity of the cattle, the custody of the concerned cattle be allowed to be retained by the appellants; and

(b) The determination about the profile of the appellants and identity of the cattle shall be carried out in accordance with law, as early as possible.

(c) This interim arrangement shall be subject to the final orders to be passed by the concerned Court in the crime in question.

Mr. Nagamuthu, learned Senior Advocate appearing for the accused placed reliance on Section 36 of the 1960 Act to submit that the prosecution for an offence ought not to be instituted after expiration

of three months from the date of offence. All these issues will be considered at the appropriate stage.

Considering the facts and circumstances of the present case, we direct the Trial Court to conclude the proceedings as early as possible and preferably within six months from today. We shall not be taken to have expressed any opinion on merits of the matter, which shall be gone into by the court concerned without being influenced by any of the observations made by us in this order.

.....J. [UDAY UMESH LALIT] .....J. [INDU MALHOTRA] NEW DELHI;

FEBRUARY 05, 2020

ITEM NO.13

COURT NO.6

SECTION II-C

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

SLP (Criminal) No.11726 of 2019

RAGURAMSHARMA & ANR.

Petitioners

VERSUS

C. THULSI & ANR.

Respondents

(FOR ADMISSION and I.R.; IA No.189023/2019 – FOR EXEMPTION FROM FILING O.T.; and, IA No.189022/2019 – FOR PERMISSION TO FILE PETITION) Date : 05-02-2020 This appeal was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT HON'BLE MS. JUSTICE INDU MALHOTRA For Appellant(s) Ms. Sonia Mathur, Sr. Adv.

Mr. Sushil Kumar Dubey, Adv.

Ms. Noor Rampal, Adv.

Ms. Divya Nair, Adv.

Mr. P. S. Sudheer, AOR Ms. Anju Aggarwal, Adv.

Ms. Puneet Pathak, Adv.

Mr. Ayush Anand, Adv.

For Respondent(s) Mr. M.P. Parthiban, AOR Mr. S. Nagamuthu, Sr. Adv.

Mr. S. Raja Rajeshwaran, Adv.

Mr. M. Yogesh Kanna, AOR Ms. Uma Prasuna Bachu, Adv.

UPON hearing the counsel the Court made the following O R D E R Leave granted.

The appeal is allowed, in terms of the Signed Order. Pending application(s), if any, shall stand disposed of.

(MUKESH NASA)  
COURT MASTER

(SUMAN JAIN)  
ASSISTANT REGISTRAR

(Signed Order is placed on the File)