

State Of Andhra Pradesh And Ors. vs G.M. Morey on 4 May, 1982

Equivalent citations: AIR1982SC1195, 1982(30)BLJR413, 1982CRILJ1571, 1982(1)SCALE445, (1982)2SCC436, 1982(14)UJ473(SC), AIR 1982 SUPREME COURT 1195, 1982 (2) SCC 463, 1982 LAWYER 59, (1982) SCCRIR 353, (1982) CHANDCRIC 113, (1982) MAHLR 186, 1982 SCC (CRI) 478, 1982 BBCJ 179, (1982) SC CR R 185, 1982 CHANDLR(CIV&CRI) 218, (1982) 2 SCWR 115

Bench: A.P. Sen, O. Chinnappa Reddy, R.B. Misra

JUDGMENT

1. We see no merit in the appeal and we accordingly reject it. Frank and fair as usual, Shri K. Parasaran, learned Solicitor General, invited us to consider whether the point of view which he was presenting to us would make any difference to the view expressed by the Court in *Morey v. State of Andhra Pradesh*. Cr. Appeal No. 247 of 1981 What we now say is, therefore, a post-script to what the court had said in *Morey v. State of Andhra Pradesh*. The learned Solicitor General argued that G.O.M.S. No. 557 was earlier in point of time than the pronouncement of this Court in *Maru Ram v. Union of India* and that at that time, it was thought that Section 433A Cr.P.C. was retrospective and applied equally to those convicted and sentenced before that provision came into force as to those convicted and sentenced thereafter. He also suggested that there was no need at all to except those who were governed by Section 433A Cr.P.C. from the G.O., since the Government could not in any event remit the sentences of those governed by Section 433A Cr.P.C. We are unable to agree with the submissions of the learned Solicitor General.

2. In *Maru Ram v. Union of India*, the court merely declared the law and did not make it. The law declared by the court must be considered to have always been so. The G.O. has necessarily to be construed in the light of construction placed upon Section 433A Cr.P.C. by this Court in *Maru Ram v. Union of India*.

3. Now, what was the object of Section 433A Cr.P.C. It was that those governed by it shall not be released unless they have served a sentence of at least 14 years imprisonment. Section 433A Cr.P.C. does not govern all life convicts. It does not apply to those convicted and sentenced to life imprisonment before its commencement. It does not apply to those convicted and sentenced to life imprisonment for offences not punishable with death, such as, Sections 304, 307, 306 IPC, etc.

4. Those convicted and sentenced to life imprisonment after the commencement of Section 433A Cr.P.C. for offences for which the sentence of death could have also been imposed alone are governed by Section 433A Cr.P.C. The effect of Section 433A Cr.P.C. on those that are governed by it is that they must undergo imprisonment for a minimum period of 14 years. Those that are not governed by Section 433A Cr.P.C. are not bound to undergo imprisonment for a minimum period of 14 years, being eligible for such remissions as may be granted to them by the Government. Those governed by Section 433A Cr.P.C. are excepted from the benefit of G.O.M.S. No. 557 for the obvious

reason that they have to serve the statutory minimum period of 14 years in jail prescribed by Section 433A Cr.P.C. Others, i.e., those in respect of whom there is no such statutory compulsion are entitled to the benefit of the G.O. The reference to those governed by Section 433A Cr.P.C. in the G.O. is evidently to clarify the position that the G.O. will not apply to those life convicts in respect of whom there is a statutory compulsion to serve a minimum term of imprisonment of 14 years and will apply to those in respect of whom there is no such statutory compulsion. In the result, the appeal is dismissed.