

Supreme Court of India

Jagat Prasad vs State Of U.P. on 8 August, 1996

Equivalent citations: (1998) 8 SCC 632

Bench: G Ray, B Hansaria

ORDER

1. In this petition, the vires of Section 9 of the CrPC Code (U.P. Amendment) Act, 1976 (Act 16 of 1976) has been challenged on the ground that the section is violative of Articles 19, 14 and 21 of the Constitution of India. Considering the importance of the point raised in Writ Petition No. 5883 of 1980, a Bench of this Court by an order dated 31-3-1981 referred the said writ petition to be considered by a larger Bench by noting that the point involved was a very substantial question of law as to the interpretation and application of various articles of the Constitution having far-reaching consequences, not only in the State of U.P. but in other States if they choose to follow suit and adopt the stand taken by the U.P. Legislature. It was also indicated in the said order that Section 438 of the CrPC Code as introduced by Parliament is applicable to all the States.

2. It however appears that the said writ petition came up before a Constitution Bench of this Court and the same was disposed of on 18-2-1983 without considering the case on merits because the learned counsel appearing for the petitioner did not press the writ petition. In the impugned order, reference has been made to Writ Petition (Crl.) No. 5883 of 1980 which was referred to the larger Bench. Since the question was pending before the larger Bench of this Court, the High Court did not decide the question raised in the application. As it appears to us that the points raised for decision have far-reaching consequences and such question should be decided by a larger Bench, we direct that this matter be placed before the Hon'ble the Chief Justice of India for being heard by a Constitution Bench.

3. The report of the Registry dated 31-7-1996 reveals that the original record has not been received from the High Court as well as from the trial court. Let a reminder be sent so that the records be transmitted to this Court at an early date.