

other human costs. It also hinders development by undermining women's participation in development related activities, reduces their labour participation and earnings.

One of the most affected groups are children who witness violence. Such children have an increased risk for emotional and behavioural problems such as anxiety,

depression, poor self-esteem, poor school performance, disobedience, nightmares, and physical health complaints. For example, in a study in rural Karnataka, it was found that children of mothers who were beaten received less food than other children did, which implies that these women probably could not bargain with their husbands on their children's behalf.

FACTIONALISM IN RAYALASEEM REGION OF ANDHRA PRADESH: A JUDICIAL PERSPECTIVE

By

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In Rayalaseema region of Andhra Pradesh, Palegars vanished after the independence, but the culture survived in the form of factionists. Factionists fought among themselves for supremacy over villages. The common man led a miserable life in faction villages where human rights were seriously violated. Bomb culture came into existence in the early eighties when bomb manufacturing emerged a cottage industry. During the time, the factionists made an entry to politics and political parties, too, vied for their support.

Now, leaders with faction background are everything for political parties without whose help the parties cannot fight elections. The murder of elected representatives is nothing new to the area. *Mahabaleswar Gupta*, *Madduri Subba Reddy*, *Seshi Reddy* from Kurnool and *Siva Reddy* from Cuddapah are among those who were murdered while in power. The over three-decade-old rivalry between the families of Telugu Desam MLA

Paritala Ravindra and *Gangula Suryanarayana Reddy* that held faction-ridden Anantapur¹.

In this paper an attempt is made to observe the decisions of the higher judiciary i.e., High Courts and Supreme Court in the protection of human rights of the victims of the faction in Andhra Pradesh and also analysis the judicial opinion on faction related cases.

No protection for a Factionist

Though Article 21 of the Constitution of India ordains that no person shall be deprived of his life or personal liberty except

1. D. Sreenivasulu, Palegars or factionists, they call the shots in Rayalaseema <http://www.hindu.com/2005/01/26/stories/2005012605390400.htm>, W. Chandrakanth, Faction violence has its roots in medieval history, <http://www.hindu.com/2010/01/01/stories/2010010154380300.htm> Faction feuds down in Rayalseema, <http://www.thehindu.com/todays-paper/tp-national/tp-andhrapradesh/article1031114.ece>

according to the procedure established by law, no person can claim as of right that the State should provide him with personal security to ensure that his life is protected². The philosophy of the State should be to maintain law and order at a macro level, rather than concentrating on safety of certain individuals in the society. It is not desirable to provide personal security to the persons, who are part of factions with long criminal record. Such provision of personal security will bolster their activities to the detriment of the society at large. A person, who has chosen violence as his way of life and who does not have any value for human life, has no right to plead that the State should take special measures to protect his life from his rivals. The threat perception, if any faced by such a person, is of his own making as it is his actions which evoke reactions from his rival group³.

Impossibility in finding independent evidence

In a faction village it will really be impossible to find independent versions to come forward and give evidence and in a large number of such cases only partisan witnesses would be natural and probable witnesses⁴. The medical evidence *i.e.*, the injuries found on the body of the deceased also corroborated the evidence of the eye-witnesses. The prosecution was held succeeded in proving that the deceased died due to the injuries caused by accused 1 to 8 and 11 with hunting sickles and bombs and they are liable for punishment. The manner in which the incident took place clearly indicates that the accused persons shared the common intention of committing the murder of the deceased⁵.

In a faction ridden village, a group of 10 to 12 persons of other factions of the village were chasing a person. One gave a blow by his chopper on the head and on other parts of the body. Similarly, another beat him by means of an iron rod on different parts of the body and rest of the them beat him with the clubs and stones. The wife ran towards the victim to rescue him and she raised her hands to ward off the blows on her husband; the blows fell on her right hand and caused injuries to her wrist. The victim fell down and became unconscious. Meanwhile, the nephew of the victim came running to rescue but he was also beaten with stones and clubs which hit his forehead and all over his body. It was contended that all the witnesses belong to the other factions and they are all relations and there is litigations pending between the parties. Therefore, their testimony should be discarded as a whole. The contention was rejected by the Apex Court and convicted the accused appellants⁶.

Political Faction Murders

Chinthalajuturu in Vemula Mandal of Cuddapah District (Andhra Pradesh) is a faction-ridden village. One of these factions is led by *Kakarla Gangi Reddy* (victim group) that supports Congress Party. The leader of the other faction is *Annareddy Samba Siva Reddy* (accused group) which supports Telugu Desam Party. There were instances of attack between these groups earlier also. One year prior to the present incident, one *Yeddula Gangi Reddy* of the Congress Party and belonging to victim group was murdered. About a fortnight prior to the incident, one *Sirigireddy Prathapa Reddy* of accused group was murdered. For the murder of *Sirigireddy Prathapa Reddy*, the members of victim group figured as accused.

2. *C.V. Nagarjuna Reddy J.*, in *S.V. Subba Reddy v. The Superintendent of Police*, decided on 22 June, 2010, <http://www.indiankanoon.org/doc/503505/>

3. *Ibid.*

4. Andhra High Court *State of Andhra Pradesh, Rep. by ... v. I. Rayapati Thimpathi Reddy, ...* on 15 March, 2011 <http://www.indiankanoon.org/doc/526241/>

5. *Ibid.*

6. *A.K. Mathur, J.* Supreme Court of India, *State of Karnataka v. Papanaika & Ors*, decided on 14 October, 2004 <http://www.indiankanoon.org/doc/404489/>

The Court aptly raised the queries as to how could it be possible for any person to recount with meticulous exactitude the various individual acts done by each assailant? Had they stated so, their testimony would have been criticized as highly improbable and unnatural. The testimony of eye-witnesses carries with it the criticism of being tutored if they give graphic details of the incident and their evidence would be assailed as unspecific, vague and general if they fail to speak with precision. The golden principle was held not to weigh such testimony in golden scales but to view it from the cogent standards that lend assurance about its trustfulness. The trial Court and the High Court have given cogent and convincing reasons for accepting the evidence of prosecution witnesses PW3. Therefore, the Apex Court concurred with the lower Courts and dismissed the appeal⁷.

In another case⁸, factions existed in the village for the past few decades, on the line of loyalty of persons Congress party or Telugu Desham Party. The factions become violent in the year 1994, when elections to the A.P. Legislative Assembly took place. Bombs were hurled against each other. A gruesome and terrifying incident has taken place, in the village on the Mydukur-Proddatur road, in Kadapa District. It was observed that in view of the deadly and horrifying manner in which the attack took place, it was opined by the Court as natural that no independent witness would have witnessed the same with a proper mental composure. Even if anyone had witnessed it, he would not be forth coming to reveal it, either to the Prosecution or to depose before the Court. The only available material for the Court would be the evidence of the

persons, belonging to the faction, which was at the receiving end⁹.

Fair Trial to the Victims

The need to ensure fair trial in a case is also an equal responsibility of entire criminal justice system. Fair trial means, not only fair trial to the accused but also to the victims and to the witnesses. If the accused, who have committed gruesome brutal offences are released on bail, it may give wrong signal to the society and no witness may come forward to depose the truth before the Court.

Conservative Interpretations

Proclamation requiring the personal appearance of the accused before the Magistrate relating to an alleged murder of one Congress leader and former Sarpanch of the village was challenged. The alleged murder was committed at the instance of persons belonging to Telugu Desam Party and in pursuance of a conspiracy due to party factions. The petition was dismissed even though the time period within which the appearance contemplated was less than the prescribed 30 days under Section 82 Cr.P.C.¹⁰.

*Y. Saraba Reddy v. Puthur Ram Reddy and another*¹¹, while the deceased was coming on a motorbike, accused persons armed with deadly weapons, attacked and killed him. Appellant who was examined as prosecution witness and lodged complaint with the police and investigation was taken up. On an application made by the respondents, the Superintendent of Police, Anantapur District got the matter investigated by the Deputy

7. *Anna Reddy Sambasiva Reddy & ors. v. State of Andhra Pradesh*, Supreme Court of India on 21 April, 2009, <http://www.indiankanoon.org/doc/1118437/>

8. *State of A.P. v. Meegada Sudbiaker Reddy*, 2008-LAWS-3020, 200d-ALD(Cri)-1-835

9. *Ibid*

10. *Samudrala Govindarajulu J., Andhra High Court, K. Rama Krishna v. State of Andhra Pradesh*, Rep. by ...decided on 28 October, 2010, <http://www.indiankanoon.org/doc/44236/>

11. *Dr. Arijit Pasayat, J., Supreme Court of India*, decided on 7 May, 2007 <http://www.indiankanoon.org/doc/1695102/>

Superintendent of Police, Guntakal and on the basis of his report, names of the present respondents were deleted from the array of accused. The High Court accepted that there was force in the contention that on account of political factions the respondents were falsely implicated and on account of change of Government, the public prosecutor had filed the petition.

The Apex Court held:

The trial Court has undoubted jurisdiction to add any person not being the accused before it to face the trial along with other accused persons, if the Court is satisfied at any stage of the proceedings on the evidence adduced that the persons who have not been arrayed as accused should face the trial. It is further evident that such person even though had initially been named in the F.I.R. as an accused, but not charge-sheeted, can also be added to face the trial. The trial Court can take such a step to add such persons as accused only on the basis of evidence adduced before it and not on the basis of materials available in the charge-sheet or the case diary, because such materials contained in the charge-sheet or the case diary do not constitute evidence. Power under Section 319 of the Code can be exercised by the Court *suo motu* or on an application by someone including accused already before it. If it is satisfied that any person other than accused has committed an offence he is to be tried together with the accused. The power is discretionary and such discretion must be exercised judicially having regard to the facts and circumstances of the case. Undisputedly, it is an extraordinary power which is conferred on the Court and should be used very sparingly and only if compelling reasons exist for taking action against a person against whom action had not been taken earlier. The word "evidence" in Section 319 contemplates that evidence of witnesses given in Court. Under sub-section (4)(1)(b) of the aforesaid provision, it is specifically made clear that it will be

presumed that newly added person had been an accused person when the Court took cognizance of the offence upon which the inquiry or trial was commenced. That would show that by virtue of sub-section (4)(1)(b) a legal fiction is created that cognizance would be presumed to have been taken so far as newly added accused is concerned¹².

Finally the Supreme Court directed the Trial Court to take steps for proceeding against the respondents in terms of Section 319 of the Code¹³.

No Security to the Witnesses

Now a days, there is no security to the witnesses and therefore independent witnesses are rarely coming forward to give evidence before the Courts. Therefore, the issue has to be considered in the larger interest of the public. Where there is reasonable apprehension of tampering of witnesses and apprehension of threat to the complainant, those factors have to be taken into consideration, while dealing with bail petitions. The petitioners were held not entitled to bail¹⁴.

Factions and Unlawful Assemblies

Factionists have been generally charged as members of unlawful assemblies. In *Dumpala Chandra Reddy v. Nimakayala Balireddy and others*¹⁵. Originally, all the accused were residents of Khajipalli Village. Due to factions

12. *Ibid*

13. *Ibid*.

14. *B. Chandra Kumar J., Andhra High Court , Madapuram Madduleti Naidu And ... v. The State Rep. Rep. By Its Public ...* on 6 May, 2009, <http://www.indiankanoon.org/doc/445795/>

15. *Dr. Arijit Pasayat J. [D.M. Sharma & P. Sathasivam, J.J.] Supreme Court, decided on 14 July, 2008, <http://www.indiankanoon.org/doc/1189380/> The Court quoted *Willie (William) Slaney v. State of Madhya Pradesh*, 1955 (2) SCR 1140, *Ramkishan and others v. State of Rajasthan*, 1997 (7) SCC 518, *B.N. Srikanthiah and others v. The State of Mysore*, 1959 SCR 496, *Dalbir Singh v. State of U.P.*, 2004 (5) SCC 334, *Rewa Ram v. Teja and others*, AIR 1998 SC 2883.*

with the deceased's family, the deceased left the village and migrated to Gopalapuram Village. The deceased went to his village from Hyderabad in the morning hours. After sometime the deceased took and all the accused surrounded the deceased and took out daggers from their waists and stabbed the deceased.

The Apex Court observed that the accused persons were members of unlawful assembly and in prosecution of the common object of such assembly, *i.e.*, in order to commit murder of the deceased, committed the offence and at that time they were armed with daggers *etc.*, to bring in the application of Section 148 IPC. In Charge No.3, there is a specific reference to the transactions, as mentioned in the first charge, and the object to commit murder by hacking on the body of the deceased with daggers and causing his intentional death and thereby committing offence punishable under Section 302 IPC. Therefore, the charge in relation to offence punishable under Section 149 IPC is not only implicit but also patent in the charges.

According to the Supreme Court, 'Sections 34, 114 and 149 of the Indian Penal Code provide for criminal liability viewed from different angles as regards actual participants, accessories and men actuated by a common object or a common intention; and the charge is a rolled-up one involving the direct liability and the constructive liability without specifying who are directly liable and who are sought to be made constructively liable. In such a situation, the absence of a charge under one or other of the various heads of criminal liability for the offence cannot be said to be fatal by itself, and before a conviction for the substantive offence, without a charge can be set aside, prejudice will have to be made out. In most of the cases of this kind, evidence is normally given from the outset as to who was primarily responsible for the act which

brought about the offence and such evidence is of course relevant¹⁶.'

In *Para Seenaiah and another v. State of A.P. and another*,¹⁷ the strained relationship and enmity between the two factions led to an incident in which the deceased is alleged to have made an attempt on the life of a son of factionist. On the same date at about 12.00 noon all the accused persons formed themselves into an unlawful assembly armed with deadly weapons like cart pegs and rods with the common object of killing the deceased left Nagulavellatur Village in a tractor and trailer belonging to A1. The accused found the deceased and got down from the tractor and attacked him. The deceased was running for his life but the accused persons overpowered him and caused multiple injuries including fractures on his forearm and legs. The High Court has, affirmed the conviction of A2 and A4 for the offence punishable Section 326 IPC and the sentence of imprisonment for a period of three years awarded to them¹⁸.

The Supreme Court observed: In a factious village naturally when such an attack is likely to take place most of the persons who are disinterested will be withdrawing from the scene and going away for their own safety and therefore, there is no unnaturality in the witnesses withdrawing from the scene and going to the village and thereafter returning only after the attack on the deceased.

Conviction based on dying declaration

The Apex Court approved the conviction of the accused appellants basing on the dying

16. R.M. Lodha, J., Supreme Court of India in *Anna Reddy Sambasiva Reddy and others v. State of Andhra Pradesh*, on 21 April, 2009, <http://www.indiankanoon.org/doc/1118437/>

17. T.S. Thakur, J. Supreme Court of India decided on 10.5.2012 <http://www.Indiankanoon.Org/Doc/85797177/>

18. *Ibid*

declaration of the deceased corroborated by other witnesses. The prosecution has indeed failed to establish that the deceased eventually died on account of injuries sustained by him resulting in the acquittal of accused persons under Section 302 IPC, but that part of the order passed by the Courts below does not warrant rejection of the prosecution case in to procedures laid down for deprivation thereof must be scrupulously complied with¹⁹.

False Implications Possible

False implications in faction cases is always possible. *Dunnapothula Kistaiah v. State of Andhra Pradesh*²⁰, is a faction case. It was observed that there was possibility of deliberations and false implications and in such cases delay in lodging the first information report plays a vital role.

Conclusion

Factionalism violates human rights of not only the victims but has far reaching consequences adversely affecting the lives of the dependants of factionists. It is beset with

violence, fear and gruesome actions which are undesirable in a civilized democratic process. It hinders the development process as there would be no unity.

Though it has been undisputed that the participants in the faction crimes got political leadership and or affinity with the political parties, the Courts have not passed any orders to prevent the factionalism through the political parties. The Court may consider invalidating the political party from participating in the elections for their involvement in the criminal cases whenever its members are proved involved in the faction crimes.

Therefore, factionalism is a vicious, inhuman and heinous activity shall be condemned and eradicated by all the sections of the society especially the political parties. The State machinery must take stern and unbiased actions in curtailing this social menace. The Judiciary might ensure that the culprits would never escape by shifting the burden of proof to the accused whenever there is *prima facie* evidence of factionalism on the part of the accused.

CYBER CRIMES IN INTERNET – A STUDY

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Introduction

It is important to know the past, present, future conditions of cyber crimes on internet. It is only an attempt is being made to study the trends of cyber crimes on Internet and to make an analysis.

I quote an interesting article by *Nandini Ramprasad* for the benefit of our netizens.

19. *Ibid*

20. Decided on 3 November, 2008 The Hon'ble Justice *Gopalakrishna Tamada* of Andhra Pradesh High Court, <http://Www.Indiankanoon.Org/Doc/1670234/>

“The modern thief can steal more with a computer than with a gun. Tomorrow's terrorist may able to do more damage with key board than with a bomb.”

In India internet is growing rapidly. It has given rise to new opportunities in every field, education, business, and sports. The study is important to know the past, present and future conditions of crimes in internet. Various criminal activities in cyber world by an unknown human causing damage not only individual but to countries. The internet crimes not only in India, but also secure