

A MADRAS HIGH COURT ADVOCATES ASSOCIATION
v.
DR. A.S. ANAND, HON. THE CJI., AND ANR.

FEBRUARY 14, 2001

B [K.T. THOMAS, R.P. SETHI AND B.N. AGRAWAL, JJ.]

C *Constitution of India—Article 217—Determination of correct age of Chief Justice of India—Writ Petition under Article 32—Held, no evidence produced before Court proving correct age of Chief Justice—Show Cause notice issued as to why criminal proceedings should not be initiated against petitioner—Penal Code, 1860—Section 193.*

D One K, claiming to act on behalf of petitioner-Association, filed a Writ Petition under Article 32 to determine the age of the present Chief Justice of India by declaring that he was born on 1.11.1934 and not on 1.11.1936 and then to declare that he had attained the age of superannuation on 31.10.1999. Meanwhile, the Registry of this Court received a petition from some persons claiming to be members of the petitioner-Association stating that the Association had not taken any decision to file any Writ Petition before this Court or to initiate any other proceedings against the Chief Justice of India and that K has filed this Writ Petition in individual capacity.

E Dismissing the Writ Petition, the Court

F HELD : 1.1. The Petition filed by the members of the Madras High Court Advocates Association has not been properly filed before this Court. It is assumed that this petition is filed by K on behalf of the association. This Writ Petition is an abuse of the process of the Court. Apart from the non-disclosure of what fundamental right of the petitioner has been infringed or to be enforced through this Writ Petition, it is a reckless action to malign and scandalise the highest judicial institution of this country. [1026-A-C]

G 1.2. The Writ Petition contains many statements which are ex facie false. Petitioner knows very well that the President of India had determined the dispute in 1991 itself, when the present Chief Justice was Judge of a High Court. This Court is anguished at the temerity by which the petitioner has chosen to approach this Court for seeking a declaration that a high Constitutional functionary like the Chief Justice of India was born on 1st

November, 1934, about which he has no knowledge, nor even a scrap of paper. A
[1026-D-F-G]

1.3. The petitioner has made false statements in the writ petition intentionally for the purpose of being used in the judicial proceedings. Therefore, the petitioner is required to show cause why prosecution proceedings should not be initiated against him for offence under Section B
193 I.P.C. If his explanation does not reach this Court before 28.2.2001, it will be treated that the petitioner has no explanation to offer in the matter.
[1027-G]

ORIGINAL JURISDICTION : Writ Petition (C) No. 77 of 2001. C

(Under Article 32 of the Constitution of India.)

R. Karruppan-in-Person for the Petitioner.

The Judgment of the Court was delivered by

THOMAS, J. Heard the petitioner Mr. Karuppan who argued in person. D

This writ petition is filed under Article 32 of the Constitution of India to determine the age of the present Chief Justice of India Dr. Justice A.S. Anand by declaring that he was born on 1.11.1934, and then to declare that he had attained the age of superannuation on 31.10.1999 and consequently to issue a writ of *quo warranto* against him. E

The petitioner is described as the Madras High Court Advocates' Association. The writ petition is filed by R. Karuppan as "petitioner-in-person" who has also sworn to an affidavit stating that the facts contained in the writ petition are true to his knowledge and that no part of it is false and nothing material is concealed therefrom. F

In the meanwhile, the Registry of this Court received a petition from some persons describing themselves to be the members of the Madras High Court Advocates' Association which is signed by 76 persons who claim to be members of the said Association. In that petition it is stated that Madras High Court Advocates' Association had not taken any decision to file any G
Writ Petition or to initiate any other proceedings against the Chief Justice of India. It is requested therein that the Supreme Court shall not entertain any petition filed by Sri R. Karuppan either on behalf of the Madras High Court Advocates' Association or using his name as President of the said Association. H

We do not propose to take any heed to the said petition, as the same H

A has not been properly filed in this Court. We proceed to consider the Writ petition, as we may assume that this Writ Petition was filed by Sri R. Karuppan on behalf of the said Association. Even otherwise since Sri R. Karuppan is entitled to file a Writ Petition on his own in his individual capacity as well, we are bound to consider it judicially.

B After reading the averments and the reliefs prayed for in the writ petition and after hearing the arguments made at length by Mr. Karuppan in support of them, we have no hesitation to say that this writ petition is an abuse of the process of the court. Apart from the non-disclosure of what fundamental right of the petitioner has been infringed or to be enforced through this writ petition, it is a reckless action to malign and scandalise the highest judicial institution of this country.

The writ petition contains many statements which are ex facie false. Petitioner knows very well that the President of India has determined the dispute in 1991 concerning the age of Dr. Justice A. S. Anand even when he was judge of a High Court. We asked Mr. Karuppan to show us the document which he came across for making the demand that the date of birth of Dr. Justice A.S. Anand should be declared as 1st November, 1934. In spite of repeatedly putting the question he was not able to point out even one paper in which the date of birth of the first respondent is shown as 1st November, 1934. On the other hand, we invited the attention of the petitioner to a document which he produced as the true copy of the matriculation certificate issued by the Registrar of the University of Jammu and Kashmir on 1.9.1951. That certificate has shown without the slightest ambiguity that the date of birth of first respondent is 1.11.1936. We pointed out to the petitioner that he has affirmed in his own affidavit sworn to by him that the said document is the true copy of its original. To the query the petitioner had nothing to answer. We were anguished at the temerity by which he has chosen to approach this Court for seeking a declaration that a high Constitutional functionary like the CJI was born on 1st November, 1934, about which he has no knowledge, nor even a scrap of paper. Then why did he file this writ petition?

When the same R. Karuppan, Advocate, argued in this Court in defence of a contemnor S.K. Sundaram (against whom contempt proceedings were initiated pursuant to his sending a telegram asking the Chief Justice of India to step down from office on the ground that he had already attained the age of 65, and then his filing a criminal complaint against the CJI) this Court by

its Judgment dated 15.12.2000 pronounced in unmistakable terms thus: A

Once the age of Dr. Justice A.S. Anand was so determined by the President of India in exercise of his constitutional authority, in whom alone is the power reposed to determine the question of the age of a judge of the High Court, it was not open to this contemnor to raise this question over again and again. When this contemnor once again B raised the question of the age of Dr. Justice A.S. Anand, in the year 1999, the Government of India issued a press communication which, after referring to the earlier proceedings adopted by the President of India, has stated thus: "This plea was again rejected on the ground that there was no basis for reopening the matter. The decision of the C President is final under Article 217 of the Constitution."

Now Mr. Karuppan made averments in the present writ petition that "the petitioner submits that the dispute which has arisen as early as in 1991, undetermined by the President and the operation of Article 217 is still operative and within the jurisdiction of the President." He further averred that "the D petitioner submits that the conduct of the President of India, ever since the controversy arose till date only proves that the dispute has never been determined by him or his predecessor." He further averred that the press note released by the Government of India to the Press Information Bureau on 23rd October, 2000, reached the notice of the petitioner only after 23.11.2000. In the context of this statement he concealed the fact that copy of the said press E note was included in the files of the contempt proceedings initiated against S.K. Sundaram as early as 7.11.2000. Mr. Karuppan admitted before us that he himself appeared in this Court as Advocate for S.K. Sundaram on 20.11.2000.

The above averments are ex facie false and they are stated in the writ F petition by R. Karuppan knowing them to be false.

We dismiss this writ petition in limine.

In our view the deponent Mr. R. Karuppan had made the above false statement in the writ petition intentionally for the purpose of being used in the judicial proceeding. We, therefore, require him to show cause why G prosecution proceedings shall not be initiated against him for offence under Section 193 of the Indian Penal Code. If his explanation does not reach this Court before 28.2.2001, we would treat that he has no explanation to offer in the matter. Further action on this will be decided after 28.2.2001.