

## ANDHRA PRADESH

*I'll be Judge, I'll be Jury...*

K Balagopal

... I'LL try the whole cause and condemn you to death. So said Fury to the mouse (the one with the long and sad tail) in Alice's wonderland. So also said Amrutha Reddy, chhota landlord, Director of Andhra Bank's Farm Services Co-operative Society, prominent local Congress politician and vice-president of the Mahbubabad Panchayat Samiti (district Warangal). The man he said it to was no mouse but one Mellacheruvu Nageswara Rao, a harijan-christian poor peasant by birth and a 'naxalite' by his politics; and while the mouse's tale ends inconclusively, Nageswara Rao's life ended quite conclusively.

Mahbubabad is a taluq headquarters, situated about 90 kms from Warangal town. About 15 kms to the east of Mahbubabad is a small village called Balapala, to which Nageswara Rao's family belongs. The young man was about 20 years old at the time of his death; he had been married for three years and had a two-year old son. For some time he had been active in CPI(ML) politics and was suspected by the police of being involved in the murder of one Devaiah, a big landlord and fertiliser merchant, who had been killed at Mahbubabad town a few years ago. He was killed in broad daylight, at about ten in the morning, right in his fertiliser shop.

This is the background.

The story begins with a statement carried by the newspapers of November 0, 1981 Issued by the S P of Warangal Nageswara Rao, the statement said, was apprehended by the 'people' of his village on November 5 and handed over to the police. They brought him to Mahbubabad town and 'interrogated' him till well past midnight. He 'agreed' to show them the hideout of some other naxalites and the police proceeded with him in a jeep towards a village called Parvatagiri. Parvatagiri, it is to be noted, is in a direction exactly opposite to that of Balapala. On the way, near a lambada hamlet called Badrutanda, some other naxalites attacked the jeep. The policemen got down from the jeep and gave them a chase, leaving only one unarmed constable to guard the notorious 'extremist' Nageswara Rao. In their absence, yet another naxalite came to the Jeep and

got Nageswara Rao released by threatening the unarmed constable with a country-made gun. The two naxalites then started running away.

The story now turns hot. For just at that moment a car draws near and Amrutha Reddy gets down from it. The S P was too coy to mention how Amrutha Reddy had come to know the result of the secret interrogation conducted by the police. Anyway, he did and seeing the two naxalites running away, he gave them a chase, throwing to the winds the dignity of a co-operative society's director and Samiti vice-president; he caught up with them, took one revolver and one knife from the anonymous naxalite and using them killed Nageswara Rao (who must certainly have been in handcuffs) in 'self-defence'. The other naxalite, as also all the naxalites the policemen had given chase to, vanished without a trace. Even the Telugu press, not known for any greater courage than needed to make fun of chief minister Anjaiah's stupidities, felt compelled to describe the SP's story as "theatrical".

The fantastic story was followed by rumours that Nageswara Rao had been handed over by the police to Amrutha Reddy, a friend of the late Devaiah and himself allegedly threatened by Nageswara Rao in the past, for a 'consideration'. Detailed investigation reveals that the rumours are quite likely to be true.

The AP Civil Liberties Committee (APCLC) sent a fact-finding team to the area; the team first visited Balapala village and went to Nageswara Rao's house. His mother, an old lady, broke down upon seeing the team and wept bitterly, but his wife exhibited more militant anger than grief. A lot of people of the village also gathered at the place. A fact that immediately struck the team was that though Nageswara Rao belonged to the most extreme and least mass-based of the CPI(ML) groups, his personal standing was good enough to ensure co-operation from all the people; both at Balapala and Mahbubabad town, it was youth and students, owing allegiance to the CPI(M) and the mass-based CPI(ML) groups who helped the team most.

The story the team gathered about the events of the evening of November 5 are

as follows, Nageswara Rao, who had been suffering from jaundice and had been in and out of his house for some time, was caught while coming home at about dusk, by a couple of individuals who were potters by caste and close to the late Devaiah and other local landlords. They beat him, undressed him, tied him up and handed him over to the police at Mahbubabad; simultaneously two young men of the village, belonging to Devaiah's family, went to Mahbubabad on motor cycles — presumably to inform Amrutha Reddy. In any case the police came in a jeep, followed by Amrutha Reddy in a car. The car, incidentally, belongs to Devaiah's brother-in-law.

What followed was witnessed by a large number of people of the village, at least six of whom (apart from Nageswara Rao's wife and mother) were willing to give their names to the team. Amrutha Reddy got down from his car and rushed to the Panchayat office, shouting unprintable abuses aimed both at Nageswara Rao and the local landlords, who happened to be Kamrnas (traditional rivals of the Reddys) by caste. He derided the Kamrnas for their inability to avenge Devaiah's death and said that people like Nageswara Rao should be 'picked off like insects'. Seeing the people milling around him he ordered the police to drive them away. He thrust a gun through the window of the Panchayat office and threatened to kill Nageswara Rao. The police then intervened, switched off the lights inside the office, pacified Amrutha Reddy and took Nageswara Rao in their jeep to Mahbubabad, followed by Amrutha Reddy in his ear.

What happened subsequently can be surmised, though direct evidence is not available. While Nageswara Rao was being 'interrogated' a deal was probably struck between the circle inspector and Amrutha Reddy. They then set out with Nageswara Rao towards Parvatagiri, in a direction exactly opposite to that of his village. He was killed about 6 kms up the road; they seem to have decided that nobody would recognise the body and it could be filed away as 'unidentified'; consequently, while if the police story were true it would be the normal thing to keep a policeman on guard near the body and arrest Amrutha Reddy, the self-confessed killer, they quietly came back. A police guard was sent to the place only after some passers-by reported the presence of a body there the next morning; and as for Amrutha

Redely, the team was told that he had gone to the holy town of Tirupati — to seek the blessings of the lord of the Seven Hills, no doubt. But as the S P himself has gratuitously blessed him with the 'self-defence' theory (a highly abnormal thing for a policeman to do), Amrutha Reddy is really in no need of divine blessings.

Unfortunately for the police, somebody recognised the body and Mahbubabad was agog with the news that Nageswara Rao's body had been found at such and such a place; some students, pro-CPI (M), actually went there and confirmed the identity. That was when the police came out with the fantastic story. It had to be so fantastic because it was cooked up in a hurry.

Some of the things the police did subsequently are also quite revealing. After the postmortem they took the body to Balapala and handed it over to Nageswara Rao's mother without so much as an explanation as to how he had died. They merely threatened her that if she refused to put her thumb impression without questions she would not get the body. They then insisted that the body be cremated and not buried (as would normally have been done among christians); not trusting her, they stood by and supervised the cremation. Next day they came back and carried away the burnt remains.

Following a demand from the public, the government ordered a magisterial enquiry by the RDO. The enquiry was held a couple of weeks after the fact-finding team's visit. Before the enquiry started, everybody in Mahbubabad town and Balapala village who had co-operated with the team was arrested (excepting Nageswara Rao's wife and mother), and bus services (run by the State Road Transport Corporation) between Balapala and Mahbubabad town were cancelled for the whole morning. After the 'enquiry' was over, all of them were released excepting one, a certain Chennaiah. After keeping Chennaiah in illegal custody for more than a week, and torturing him brutally (he has a broken thumb to show for it), the police have finally booked him on the charge that he was carrying bombs. Chennaiah, it must be mentioned, is a long-time political activist who co-operated actively with the civil liberties team,

Arresting people on the charge that they are found with bombs in their presence is a disquieting feature of police lawlessness in this region. Offences under the Explosives Act and Ex-

plosive Materials Act being non-bailable, this is an easy way of immobilising inconvenient people. In a recent incident that took place at Warangal town, Babu Rao and Yakub, two Railway gangmen, who had gone to visit their friend Haribhushan who was under arrest, were taken into police custody; they were kept in illegal detention for a week, then charged with carrying bombs and denied bail. Even if the cooked-up charge does not stand up in court, they are certain to lose their jobs.

But often the police are not interested in initiating even formal proceedings. Their only aim is to harass and threaten. The mining town of Kothagudem in Khammam district has recently become a centre for police lawlessness of this type. Kothagudem is at one end of the Singareni Collieries that stretch from Adilabad via Karimnagar to Khammam. The Collieries had witnessed a two-month long strike recently led partly by IFTU and partly by the Radical Youth League (RYL). Ever since that time the RYL in Kothagudem has been a target of the police, along with like-minded students of the mining institute in the town, 14 youth were arrested in June while asking for donations for their organisation (they were accused of inciting the workers); one of them was Jagan, the president of the mining institute students' union, himself the son of a sub-inspector; he was tortured for 15 days. Another unfortunate youth Is Shankar, a class 10 student, who was so badly tortured that he came out of lockup with black bruises on his body and a broken finger that was so hastily set that it has become permanently crooked. Almost anyone whom the police suspect of being a 'radical', is arrested; and once a boy is arrested the police go to his parents and get an assurance from them that he will not be allowed to join the 'radicals'.

There is a more heinous instance: four boys were arrested from Gurthur village in Mahbubabad taluq in connection with the murder of a local CPI (M) leader, Perumandla Jagannadham; two of them were picked up on July 25 and two on August 25. For two months after that the APCLC repeatedly issued statements demanding that they be produced in court; the police just refused to acknowledge the arrest. At the end of two months, two of them were released. A third, a harijan youth called Ashok, was released during mid-November (i.e., after three and a half months of illegal detention); the fourth boy, Ramakrishna Rao, is

still in police lockup. The police have threatened and tortured the boy into turning approver in the Gurthur murder case, and implicating Varavara Rao, a prominent member of the Revolutionary Writers Association. After giving his approver's statement saying that the murder had been planned at Varavara Rao's residence, Ramakrishna Rao managed to send a letter to his brother telling the story of his harassment and describing himself as a 'traitor'. APCLC managed to get hold of the letter and issued statements, but it is doubtful whether that itself can save Varavara Rao from harassment. Almost as if by design, just about this time the Andhra Pradesh government declared its intention to issue an ordinance denying bail for six months for those implicated in 'political murders'. The ordinance has not yet been issued but given the ease with which murder cases can be cooked up (and the elastic nature of the concept of a 'political' murder), it has quite disturbing implications.

Battula Somaiah is another person whom the police kept in illegal custody for a long time. He was dangled upside down from a tree, beaten with lathis, and threatened that he would be sent to the same place as Ravindra Reddy (who had been killed in July in an 'encounter' at Suryapet). His mother, a poor and illiterate old lady, approached some civil liberties people for help. Search warrants only resulted in Somaiah being shifted from place to place and a *habeas corpus* petition was met by the police with a stout denial that they had Somaiah in their custody. But he was released a week later with the statement that he had been arrested only the previous day.

Another kind of police lawlessness is the terror they unleash on villages harbouring activists of organisations of the rural poor. There are literally dozens of instances of such terrorisation in various villages in Karimnagar district. The most recent example comes from three villages in Huzurabad taluq, bordering Warangal. The villages are Kannuru, Ambala and Gudur. The poor peasants of Gudur, particularly, have an old quarrel with the police. When they put up a memorial for one of their activists, Kumaraswamy, the police forced them to pull it down. Now the police are after two other activists, Kanakaiah and Agaiah; with the willing help of a local landlord who is also a retired police circle inspector, the police are implementing a kind of communal responsibility; they have forced

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the people of the village to boycott Kanakaiah and Agaiah, should they return to the village; they have auctioned Agaiah's cattle and given the money to a person with instructions to hunt for Agaiah; they destroy the crops of those who do not co-operate with them; and of course, to make their stay remunerative, they arrest people and release them for a 'consideration'. They are said to have made 15,000 rupees this way in the past few months. When the people raised Rs 3,000 to put up bail for Kanakaiah, the police grabbed that also,

The question remains: what is to be done? It is customary for civil liberties activists, when they gather at meetings, to put the blame for their helplessness on the apathy of the general public, particularly the white collar and professional middle class, with its obsessive preoccupation with the next instalment of Dearness Allowance. There is some truth in this, but perhaps the time has come to realise that the police establishment has acquired such a thick skin that a mere public outcry will not stop its lawlessness. The rape in police lockup of Hameza Bee and the killing of her husband raised a hue and cry in Hyderabad, with students and common people taking on the police in street battles. The accusation was also supported by the Mukthadar commission; but the police managed to get the case transferred to Raichur and dismissed. Bhagalpur is another case that excited widespread public condemnation, but according to recent press reports, all the 15 policemen and officials who were suspended have been reinstated and the only ones to be punished are those who exposed the atrocity.

What is more important than the apathy of the 'general public' is the lack of basic professional ethics and dignity on the part of those who hold crucial positions in the bureaucracy and the professions. When a University student is arrested and kept in illegal detention, the vice-chancellor of the University, in spite of requests from the 'Indents' union, does not have the sense of responsibility (or perhaps the guts) to demand of the police that they produce the boy in court; when police decide to attend a students' union valedictory function in force, the principal not only lacks the sense of dignity to ask them to get out of the campus, he even offers seats to the police officers (both these incidents happened at Warangal recently); everybody knows about small town government doctors most of whom are

only too eager to perform post-mortems as demanded by the police; and the public prosecutors at the district level are so much dependent on the police that when the PP of Warangal was recently challenged about an absurd statement

in a counter-affidavit filed by him he unashamedly confessed that the people had written it out and he had signed it. It is people of this type, occupying crucial positions in society, who constitute the biggest asset to fascism.

## CIVIL LIBERTIES

# The Press and Prisons

A G Nooranl

THE Supreme Court's recent ruling in *Prabha Dutt vs Union of India* and others on the rights of journalists to interview convicts in jail deserves closer analysis than it has received. One wishes also that the Court had discussed the wider aspects of the right of the press to information in a detailed judgment. It has, instead, passed a brief order of ten paras based largely on the rules embodied in the Jail Manual.

Prabha Dutt of *The Hindustan Times* filed a petition under Article 32 of the Constitution for a writ directing the Superintendent of the Tihar Jail to allow her to interview Billa and Ranga. So did a couple of other journals as well as the PTI and UNI. Their prayer was granted by the Court and a joint interview for an hour was granted.

Rule 549(4) of the Jail Manual provides that every prisoner under a sentence of death shall be allowed such interviews with his relatives, friends and legal advisers as the superintendent considers reasonable. The Court said "Journalists or newspapermen are not expressly referred to in clause (4) but that does not mean that they can always and without good reasons be denied the opportunity to interview a condemned prisoner". Journalists, the Court added, can "be termed as friends of the society".

The Manual referred to friends of the prisoner. The Court allowed interviews to "friends of the society". One welcomes the result but cannot help feeling that the reasoning should have been based on the solid foundation of the fundamental right to free speech. Unfortunately, on this wider aspect the judgment is less than satisfactory and deserves to be reconsidered. The Court realised that what the petitioner sought was "the right to means of information through the medium of an interview". It said that there was no evidence that the convicts were willing to be interviewed. It, however, proceeded on the basis

that they were willing and granted the relief on the basis of the Jail Manual — not the fundamental right to free speech. In other words, if tomorrow the government amends the Jail Manual to exclude journalists, the press will have no remedy.

It was pointless for the Court to say that Article 19(1)(a) which embodies the fundamental right to freedom of speech "is not an absolute right, nor indeed does it confer any right on the press to have an unrestricted access to means of information". The press did not claim in this case any "absolute right" or "unrestricted access" to information. The very relief which the Court granted by stretching the Jail Manual could have been given more correctly by a proper application of Article 19(1)(a). The right to free speech implies access to news. Shut out the access and expression is rendered impossible or meaningless. The Court overlooked the fact that the relief was claimed not against the convicts — who certainly had the right to refuse to be interviewed — but against a state official, the Jail Superintendent, who refused permission. What the press seeks is unimpeded access to prisoners. It will be for them to decline to speak to the pressmen who visit them.

But this access is the best guarantee against outrages of the kind K F Rustamji exposed in the case of under-trials in Bihar or Arun Sinha of *Indian Express* exposed in regard to the Bhagalpur blindings.

It is true that the US Supreme Court under Chief Justice Burger has ruled against such access on three occasions. But those rulings need not inhibit our Supreme Court, as will be pointed out below.

In 1974 the US Supreme Court decided against the claims of three journalists — Eve Pell, Betty Segal and Paul Jacobs — who had sought interviews with willing prisoners.