

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B.  
BHOSALE**

**AND  
THE HON'BLE SRI JUSTICE S.V. BHATT**

**W.P.No.21794 OF 2015**

**ORDER:** *(Per the Hon'ble Sri Justice S.V.Bhatt)*

The petitioner prays for writ of Habeas Corpus for production of one Dilip Jain by quashing the order of detention No.3/PD/CCRB/CUB/2015 dated 07.02.2015 of the 2nd respondent and G.O.Rt.No.951, General Administration (Law & Order Department, dated 26.03.2015 of the 1<sup>st</sup> respondent.

The petitioner claims to be the son of Dilip Jain (detenu). The impugned detention orders are under the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short "Act 1 of 1986").

The circumstances relevant for the disposal of the writ petition are as follows:

The 2<sup>nd</sup> respondent referred to the following crimes in which the detenu is arrayed as one of the accused for recording satisfaction under Act 1 of 1986:

1. Cr.No.136/2010 U/s 7 (2) of Objectionable Performance Prohibition Act-1956 & Sec.3 & 4 of Immoral Traffic Act of PS Moinabad.

Facts of the case are that, the accused Dilip Jain has met with owner of the Sabiha farm house, Tholkatta and requested him to allow them for one day so as to enable to conduct a get together party. Accordingly on 21.06.2010 evening hours the accused Dilip Jain along with 21 others and (09) ladies were came to Sabiha farm house Tholkatta. The accused Dilip organized party by providing the music and liquor and they are

enjoying while the ladies were in nude condition and dancing on musical beats the male persons witnessing the same by making obscene acts. On receipt of above information SI Yaladri along with men and accompanied the panchas rushed to above farm house and apprehended all the accused persons while the accused A-1) Dilip Jain and A-2) Bikkumalla Ramesh, A-3) Bandakuntta Ram Reddy escaped from the spot. Later the SI Yaladri seized (07) cars i.e., TATA Indica Car No.AP 10V 1673, Swift Car No.AP 29/EE-11, Santro Car No.AP 29 BB-5224, Santro Car No.AP 29 M 9671, Qualis Car No.AP 09 AH 207, TATA Indica Car No. AP 09 TV 1747, J 20 Car No.AP 24/16/TCI/2009 and one sound box, amplifier, power cans 2, stab light one, one dennon console equipment, and cash Rs.4320/- under cover of seizure panchanama in presence of mediators. Subsequently the accused persons produced before the Hon'ble Court for judicial remand. In this case you have also been arrested on 30.06.2010 and remanded to judicial custody. The case is PT vide CC No.1125/2011 at the Hon'ble VIII MM Court Rajendranagar.

2. Cr.No.308/2014 U/s 294, 188 IPC, Section 7(i), 7(ii) (a) (b) (c), Sec.5 & Sec 4, Section 3(2)(b), Sec.3(1)(2) (a) of Immoral Traffic Prevention Act - 1956

Occurred on 8/9.12.2014 during night hours in an isolated house at Green Home Venture situated at Chilkur village limits reported through TS State Police Sri Ravi Chandra, Inspector of Police PS Moinabad wherein one Jatin has contacted accused Dilip Jain and requested to provide the girls for their enjoyment of their friends who have come to attend their relative marriage from Bombay and other places. As such the accused Dilip Jain engaged the eight girls from Bombay by paying Rs.5000/- each per event including traveling flight charges. Accordingly (22) male persons and (08) ladies rushed to house situated in Green Home Venture, Chilkur in different timings in individual cars. They started enjoyment by consuming alcohol, while the ladies are doing dance. On receipt of the above

information Inspector of Police Moinabad PS along with his men raided the house and seized (30) cell phones, (05) vehicles, liquor bottles, condom packet, sound boxes and amount of Rs.1,26,500/- seized from the crime scene in presence of mediators, all the accused are taken into custody and subsequently they were produced before the Hon'ble Court for judicial remand. In this case you have also been arrested and remanded to judicial custody. The case is UI for evidence.

3. Cr.No.142/2010 U/s 294 IPC and Section 7(2) of Objectionable Performance Prohibition Act-1956 of RGAI PS.

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The brief facts of the case are that on the occasion of 40<sup>th</sup> birthday of Ajay Kumar Agarwal, s/o Kailash Chandra Agarwal, age 40 yrs, r/o Phool Bagh, Domalguda, Hyderabad he requested the accused Dilip Jain, s/o A.Dhool Chand, age 52 years, Caste Marwadi, Occu: Event Organizer, N/o H.No.Plot No.47, Jawar Rail Colony, Rajasthan, present r/o Jawahar Colony, Old Bownepally, Hyderabad to organize the party to his friends, accordingly on 24.04.2010 the accused Dilip Jain brought (10) ladies from Mumbai by providing them flight charges and paid Rs.3000/- for each and organized the party at Raghavendra function hall, Shamshabad by providing the music and liquor and they are enjoying while the ladies were in nude condition and dancing on musical beats the male persons witnessing the same by making obscene acts. On receipt of above information on 24.04.2010 at 2330 hours the Inspector of Police PS RGIA along with his men raided Raghavendra Function Hall and taken (16) accused persons including Dilip Jain and (10) lady dancers and seized the (06) cars, (02) bikes and seven lighting boxes, one Amplifier one sound box, one connecting cables, stabilizer, two small sound boxes and (3) full bottles, 12 empty bottles and (05) bottles of signature (05) bottles of antiquity under a cover of seizure report. Subsequently, the accused persons remanded to judicial custody. In this case you have also been arrested and produced before the Hon'ble Court. The case is PT.

4) 186/2014 U/s 294 IPC, Sec.3, 4, 5 (i)(d) of PITA Act

of PS Jawahar Nagar.

Facts of the case are that on 26.10.2014 Sri N.Sankar Kumar, S I of Police along with team including WPC conducted raid at Flat: 301, Vishali Meadows, Ho.No.5-9-350/145/146, Registration Colony, Yapral Village, Malkajgiri Mandal, R.R.District at 0215 hours and found pimp Dilip Kumar Jain, s/o Dhul Chand, age 50 yrs, Occu: Events management, R/o Plot No.47, Jawahar Colony, Gun Rock, Secunderabad, N/o Jawaja, Rajasthan is running obscene dances and prostitution by procuring three women. It is also found that about 5 days back he brought the said women from their respective native places and accommodated in Flat: 301, Vishali Meadows, Registration Colony, Yapral Village, Malkajgiri Mandal. On 25.10.2014 he called his customers to his brothel den for providing enjoyment of obscene dances and sexual enjoyment for Rs.40,000/- for his wrongful gain. Therefore, SI of Police took the said persons into custody and produced the above said accused

(1) Dilip Kumar Jain, s/o Dulchand, aged 50 years along with 5 others and victims i.e., Kum.Sania Samantharai, Smt.Binni Sharma, Kum.Simran Singh Takur and seized property cash Rs.41,000/-, (6) cell phones, (03) vehicles i.e., Maruthi van bearing No.AP 29 F 3987, Skoda car bearing AP 10AV 4050 and Verna fluidic car br.No.AP 12 M 3443. Subsequently all the accused persons were produced before the Hon'ble Court for judicial remand. The case is being charged.

As per the clause (i) of section 2 of The Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986, a "Immoral Traffic Offender" means "a person who commits or abets the commission of any offence under suppression of Immoral Traffic of Women and Girls Act, 1956".

Thus, you Dilip Jain have indulged in the illegal activities by committing offences as leader of Immoral Traffic Offender habitually has indulged in the illegal activities such as Organizing Obscene Acts and songs and Immoral Traffic Prevention Act and thereby you bring the ladies/girls from Mumbai and other places and conducting the illegal activities such as nude dance, rave parties, mujra parties etc., in outskirts of Hyderabad and gaining income by collecting huge amount from the needy customers and causing disturbance and damaging the moral values among the innocent general public within jurisdiction of the Cyberabad Commissionerate. Further, your acts have been adversely affecting the maintenance of public order and tranquility.

As seen from the records you have involved in (4) cases for committing offences of Organizing Obscene Acts and songs and thereby you bring the ladies/girls from Mumbai and other places and conducting the illegal activities such as nude dance, rave parties, mujra parties etc., in outskirts of Hyderabad and gaining income by collecting huge amount from the needy customers. In all the above cases you were arrested and was released on bail by the Hon'ble Court. Even after release on bail, you have indulged in committing offences again and again. Therefore, it is imperative to prevent you from acting in any manner prejudicial to maintenance of public order. I am satisfied that recourse to normal law may not be effective deterrent in preventing you from indulging in further activities, which are prejudicial to maintenance of public order and tranquility.

You are a rave party organizer. You have wide contacts in Mumbai, Kolkotta and other cities from where you arrange women for participation in such illegal obscene dance with music and anti social activity which also includes consumption of drugs, liquor and prostitution. Despite several cases booked

on you, you are continuing your activity in a brazen manner which is creating public disorder.”

The 2<sup>nd</sup> respondent, by referring to the above circumstances and the arrest of detenu and subsequent release on bail by the competent criminal court and repetition of very same and similar offences after the detenu is enlarged on bail, recorded a finding that to prevent the detenu from acting in any manner prejudicial to maintenance of public order and to prevent the detenu from arranging women for participation in such illegal, obscene dance with music i.e., at rave parties, anti-social activity, which includes consumption of drugs, liquor and prostitution, ordered detention of the detenu. The order of detention, as already noted, is confirmed by the 1<sup>st</sup> respondent through G.O.Rt.No.951, General Administration (Law and Order) Department, dated 26.03.2015. Hence, the writ petition.

The petitioner challenges the order of detention primarily on two grounds viz., (i) that the order of detention for a period of twelve months under Act 1 of 1986 is not within the jurisdiction of 2<sup>nd</sup> respondent and in support of this contention, the learned counsel for petitioner relies upon the decisions of the Hon'ble Apex Court in **CHERUKURI MANI V/s. CHIEF SECRETARY, GOVERNMENT OF ANDHRA PRADESH AND ORS**<sup>[1]</sup> and **MUNAGALA YADAMMA V/s. STATE OF ANDHRA PRADESH AND ORS**<sup>[2]</sup> and (ii) that the detaining authority did not serve on the detenu the grounds of detention and material relied upon by the detaining authority and the order of detention is violative of Article 22 of the Constitution of India.

The 2<sup>nd</sup> respondent filed counter affidavit. By way of reply, the 2<sup>nd</sup> respondent refers to the cases in which the detenu is shown as accused and it is further alleged that the detenu is bringing ladies/girls

from Mumbai and other places for conducting rave parties, Mujra parties, encouraging prostitution etc. Having regard to the twin grounds of challenge to detention order, we are not referring in detail the averments in the affidavit and counter affidavit.

On the first contention, the learned Government Pleader contends that the decision reported in ***Cherkuri Mani's*** case (1 supra) was considered by this Court in W.P.No.40066 of 2014 and W.P.No.5168 of 2015 along with the principles of law laid down by the Apex Court in **HARPREET KAUR [MRS] HARVINDER SINGH BEDI V/s. STATE OF MAHARASHTRA AND ANR<sup>[3]</sup>**, **T. DEVAKI V/s. GOVERNMENT OF TAMIL NADU AND ORS<sup>[4]</sup>** and the power of detaining authority to pass the detention order beyond three months was considered and by following ***Harpreeth Kaur's*** case and ***T. Devaki's*** case, the contention on ***Cherkuri Mani's*** case (1 supra) was rejected. According to learned Government Pleader, ***T. Devaki's*** and ***Harpreeth Kaur's*** cases have not been brought to the notice of the Apex Court in ***Cherukuri Mani's*** case and for this reason to appreciate the binding principle of law, this Court in W.P.No.40066 of 2014 and W.P.No.5168 of 2015 examined the case law and held that under Act 1 of 1986, the detention at the inception can be for twelve months.

The contention of learned counsel for the petitioner is that the order of detention for twelve months at a time is illegal and unconstitutional and liable to be set aside, having regard to the ratio laid down by the Apex Court in ***Cherukuri Mani's*** case. On the other hand, learned Government Pleader places reliance upon ***Harpreet Kaur (MRS) Harvinder Singh Bedi's*** case and ***T.Devaki's*** case together with two unreported decisions of this Court where similar point was considered and held against the detenu.

We have perused the principles laid down in ***Harpreet Kaur***

**(MRS) Harvinder Singh Bedi's** case and **T.Devaki's** case and also the view taken by Division Benches of this Court in W.P.No.40066 of 2014 and W.P.No.5168 of 2015. The relevant portion in W.P.No.40066 of 2014 read as follows:

“It is evident from the aforesaid judgments of the Supreme Court in T. Devaki and in Harpreet Kaur, that Section 3(2) of A.P. Act 1 of 1986 only deals with delegation of powers, and has nothing to do with the period of detention of a detenu. Neither the three-Judge Bench in T.Devaki nor the two-Judge Bench in Harpreet Kaur was noticed by the two-Judge Bench of the Supreme Court in Cherukuri Mani. It is settled law that when a High Court is confronted with conflicting judgments of the Supreme Court, it is bound to follow the judgments of larger benches of the Supreme Court in preference to the smaller benches of the Supreme Court. (Sakinala Harinath v. State of A.P.) .As the judgment of the Supreme Court in T.Devaki was rendered by a bench of three Judges, it is the law declared therein which binds the High Court, and not the law declared in the two-Judge Bench judgment of the Supreme Court in Cherukuri Mani , as the judgment in T. Devaki was not brought to the notice of the two judge bench of the Supreme Court in Cherukuri Mani. The first contention of Mr. M.M. Firdos, therefore, necessitates rejection. It is also necessary to note that, in the present case, the Commissioner of Police has not prescribed the period of detention of Mr. Salam and it is the Government which, in the exercise of its powers under Section 12(1) of A.P. Act 1 of 1986, which has confirmed the detention and has continued his preventive custody for the maximum period of twelve (12) months as stipulated under Section 13 of A.P. Act 1 of 1986 ”.

We are in complete agreement with the view expressed by this Court in these two writ petitions and in our considered view, the first contention raised by the petitioner is without merit and is, accordingly, rejected.

On the other contention viz., that the grounds of detention and material on which the detaining authority relied upon are not served on the detenu, the reply of the 2<sup>nd</sup> respondent reads thus:

“It is pertinent to submit that a copy of detention order, grounds of detention including translated copies in Hindi language along with supported documents were furnished to the detenu in the presence of Jailor at Central Prison, Cherlapally on 7.2.2015, so far no representation was submitted to any of the authorities by the detenu”

It is further stated that the objection that no grounds of detention or material is not given, is stated for the first time and further no representation was submitted to any of the authorities by the detenu.

At the outset, we take note the view taken by this Court in W.P.No.40066 of 2014 and W.P.No.5168 of 2015 and we are in agreement with the view expressed by the Division Bench in these two decisions. The fact that the detention order is passed for 12 months by itself is not a ground in interdicting and setting aside the order of detention. The other objection raised by the petitioner is that the grounds/material etc., is not furnished to the detenu. This assertion appears to be incorrect and made for the purpose of maintaining the writ petition. The material filed along with the counter affidavit of 2<sup>nd</sup> respondent clearly discloses that the grounds of detention and the material on which the detaining authority has relied upon had been served on the detenu. Therefore, the other objection raised by the petitioner is unsustainable and liable to be rejected. Except these two grounds, no other ground is urged. There is no merit in the writ petition.

The writ petition is, accordingly, dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, also

stand disposed of.

BHOSALE, ACJ

DILIP B.

S.V.BHATT,

J

Date:18.12.2015

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[\[1\]](#) ) AIR 2014 SC 2019  
[\[2\]](#) ) [2012]2 SUPREME COURT CASES-386  
[\[3\]](#) ) [1992] 2 SUPREME COURT CASES 177  
[\[4\]](#) ) (1990) 2 SUPREME COURT CASES-456