

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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W.P. NO. 29983 2014

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Date of Judgment: 10.3.2015

Between:

S. Gomathi

...Petitioner

And

The Government of Andhra Pradesh and others

..Respondents

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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W.P. NO. 29983 of 2014

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ORDER:

Wife of the detenu has filed this writ petition questioning the detention order dated 27.8.2014 passed by the 2nd respondent under the provisions of the A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (Act No. 1 of 1986), which was confirmed by the 1st respondent in G.O.Rt.No. 3402, General Administration (Law & Order) dated 10.10.2014.

While the order of detention is questioned on various grounds, but after counter-affidavit was filed, the petitioner

sought to raise an additional ground by filing WPMP No. 44023 of 2014. The said application having not been opposed, is ordered.

Heard learned counsel for the petitioner as well as learned Advocate General appearing for the respondents.

The learned counsel for the petitioner seeks to raise a contention that the order of detention was passed by the Joint Collector who was in charge of Collector & District Magistrate and since the said in charge officer is not empowered to pass the detention order as he holds substantial post of Joint Collector, the order of detention is unsustainable.

Since in the counter-affidavit of 2nd respondent it is stated that the detaining authority is in charge Collector & District Magistrate, Chittoor district, the learned Advocate General fairly states that the matter is covered by the judgment of this Court in W.P.No. 32710 of 2014 and batch, dated 2.3.2015 wherein I had considered and held that the Joint Collector is not empowered to pass order of detention under Section 3 (2) of the A.P. Act 1 of 1986 and in view of that, therefore, the order of detention cannot be sustained on that ground. Rest of the grounds are not necessary to be gone into as the order of detention is liable to be set aside on the ground mentioned above.

In view of that, the writ petition is allowed, the detention order is quashed and the detenu Nallathambi Saravanan s/o Nallathambi shall be released from custody forthwith, if he is

not required in any other case.

Miscellaneous applications, if any, shall stand closed.

No order as to costs.

VILAS V. AFZULPURKAR, J

Dt. 10.3.2015

NB:

Advance order already sent on 10.3.2015

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