

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.161 OF 2016

Pradip @ Balaya s/o Nilkanth Wanjari

-vs-

The State of Maharashtra and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri A. S. Band, Advocate for petitioner.
Ms K. Joshi, APP for respondent/State.

CORAM : B.P.DHARMADHIKARI &
A.S.CHANDURKAR, JJ.

DATE : AUGUST 23, 2016

Heard.

Shri Band, the learned counsel for the petitioner submits that two in-camera statements in original are not verified by the detaining authority and the subjective satisfaction that witnesses are not ready and willing to come forward to depose is not reached in accordance with law in the matter.

We have heard the learned APP and also perused the original statements which are taken out of sealed envelope from the record produced by the learned APP.

On 22/08/2016 we have decided Criminal Writ Petition No.171/2016 in which there was an identical challenge.

Perusal of the original in-camera statement shows that Additional Commissioner has mentioned that he has proceeded to the alleged spot and verified the truth of the statement. Verification of truth of episode disclosed by in-

camera witness is not required in law. Subjective satisfaction required to be reached is witnesses are not ready and willing to come forward to depose because of threat and terror.

Paragraphs 9 and 10 of the impugned order deal with this aspect. In paragraph 9 it is mentioned that with great difficulties statements of two witnesses (in-camera) could be procured. No material to support the same is available on record. After mentioning the text of statements or inference therefrom, in paragraph 10 subjective satisfaction that petitioner is a dangerous person has been reached. Again there is no subjective satisfaction reached by the respondent No.2 that witnesses in general are not ready and willing to come forward to depose.

Perusal of original statement also shows that it is not counter-signed or initialed by respondent No.2 to keep on record the fact that he has perused original statements.

In view of judgment delivered yesterday i.e. on 22/08/2016 in W.P. No.171/2016, we do not find it necessary to delve more into the matter.

We find the order of detention dated 26/09/2015 as confirmed on 04/11/2015 is unsustainable. It is accordingly quashed and set aside.

Writ petition is allowed with no order as to costs.

JUDGE

JUDGE

-: C E R T I F I C A T E :-

“ I certify that this Judgment/order uploaded is a true and correct copy of the original signed Judgment/order.”

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