

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice M.S.K.Jaiswal

Writ Petition No.39891 of 2016

Date: 20.12.2016

Between:

Mohanlal Janagal

.. Petitioner

and

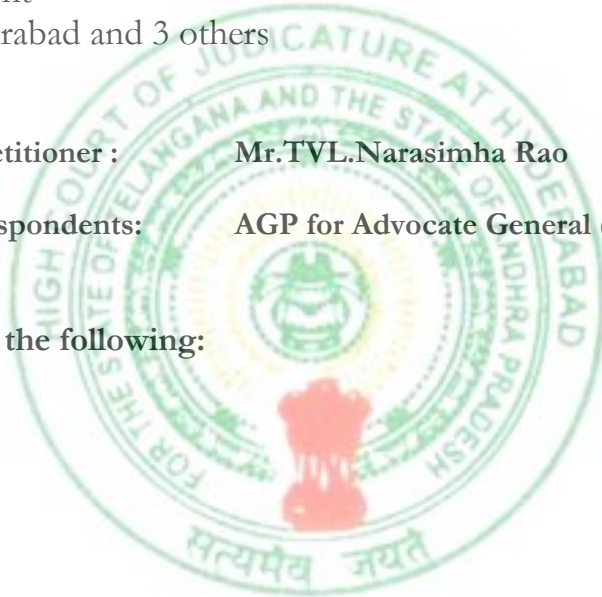
The State of Telangana
rep. by the Principal Secretary,
Home Department
Secretariat, Hyderabad and 3 others

.. Respondents

Counsel for the Petitioner : Mr.TVL.Narasimha Rao

Counsel for the respondents: AGP for Advocate General (TS)

The Court made the following:



Order : (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Petition is filed for Habeas Corpus by directing the respondents to produce the alleged detenu- Poonamchand Janagal, who is the son of the petitioner, before the Court and set him at liberty.

The Inspector of respondent No.4- Police Station has filed a detailed counter-affidavit wherein it is *inter alia* averred that on the petitioner approaching respondent No.4 by lodging a report on 01.09.2016 with the complaint that his son, aged 21 years, residing in Flat No.202, Neel Rekha Kalyan Apartment, P&T Colony, Tirumalagiri, Hyderabad, along with one Mona, is missing since the evening of 26-08-2016, Crime No.115 of 2016 was registered under the head "Man Missing". It is further averred that during the course of investigation, the Investigation Officer flashed the message regarding the missing of the petitioner's son to all the Police Stations in Hyderabad Commissionerate and neighbouring Police Stations; that he has also placed the said information with City Crime Record Bureau with a request to publish the same in the Crime and Occurrence Sheet; that he has prepared the Look Out Notice and sent it to all the Police Stations in Hyderabad, Secunderabad and bordering Police Stations of Cyberabad; that the said information was also got published in the news media; that the

Investigation Officer examined the petitioner and recorded his statement; that he has also examined the roommate of the missing person viz., Lukaram Mona Chanu, who stated that she was staying with him for the last three months in the said Flat; that petty quarrels used to take place between them; that on 26.08.2016, the missing person threatened to consume phenyl after quarrelling with her; that when she dialled '100' to inform the Police about the same, the missing person has left the place; and that since then his whereabouts are not known. It is further stated that the Investigation Officer has visited the Hostel of English and Foreign Languages University, wherein the missing person was studying BA (Spanish) II Year, examined the hostel warden and the students staying there; that he came to know that the missing person was decent; that about six months back, he shifted to Tirumalagiri, Secunderabad; that about 10 days back, the Investigation Officer has again examined the said Mona; and that she repeated the same statement as was given earlier by her. The counter-affidavit denied the allegation that the Police are feigning ignorance about the whereabouts of the missing person and also the petitioner's apprehension that there may be custodial death.

Mr.TVL.Narasimha Rao, learned Counsel for the petitioner, strenuously argued that the Police are not giving correct facts and

that they have been hiding something from the Court. He has further submitted that though the counter- affidavit has enumerated several measures having been taken by the Police, no documents have been produced in support thereof.

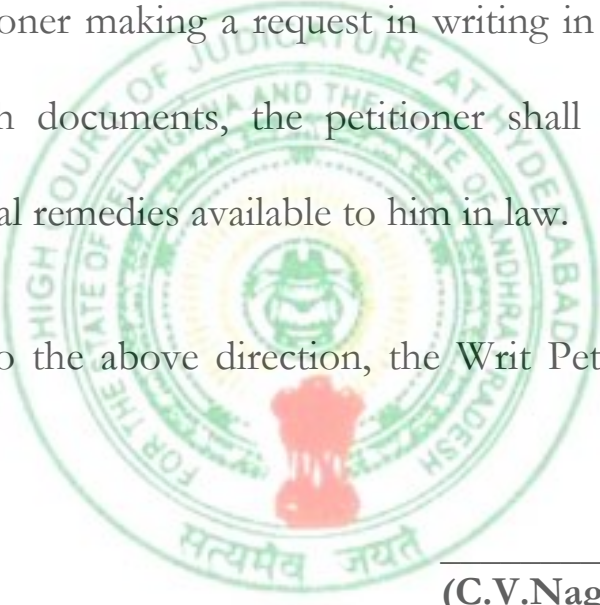
The learned Assistant Government Pleader representing the learned Advocate-General (TS) appearing for the respondents submitted that the Police have been doing their best to ascertain the whereabouts of the missing person and that in spite of their best efforts, they are not able to trace the missing person so far.

A writ of Habeas Corpus is issued, if a person is in illegal detention of any other person, be it the functionary of a State or a private person. The averments in the counter-affidavit reveal not only that a Criminal Case was registered on the report given by the petitioner about the missing of his son, but also several steps having been taken by the Police to trace the whereabouts of the missing person. If, in the process, the Police are unable to detect the whereabouts of the missing person, this Court cannot embark upon an enquiry as to whether the measures stated to have been taken by the Police are effective or not. If the petitioner has a grievance about the inaction of the Police, he is entitled to avail the remedies available to him under the provisions of the Code of Criminal Procedure, 1973.

The learned Counsel for the petitioner submitted that to enable his client to avail such remedy, he needs the copies of all the documents, which have been referred to in Paragraph Nos.4 and 5 of the Counter-affidavit.

In the light of the above submission, respondent No.4 is directed to furnish all the documents, which have been referred to in Paragraph Nos.4 and 5 of the counter-affidavit, within one week from the petitioner making a request in writing in this regard. On receipt of such documents, the petitioner shall be free to avail appropriate legal remedies available to him in law.

Subject to the above direction, the Writ Petition is disposed of.



(C.V.Nagarjuna Reddy, J)

(M.S.K.Jaiswal, J)

Dt: 20th December, 2016
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