

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION NO.4746 OF 2016

DATED:22-06-2016

Between:

Kalakonda Chalamanda ... Petitioner

And

The State of Telangana
Rep. by its Principal Secretary
General Administration (L&O) Department
Office of Telangana Secretariat
Hyderabad
and another ... Respondents

COUNSEL FOR THE PETITIONER: Mr. N. Ramachander Rao,
Senior Counsel
for Mr. Venugopal Julakanti

COUNSEL FOR THE RESPONDENTS: G.P. for Home (TS)

THE COURT MADE THE FOLLOWING:

ORDER: *(per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)*

The detention of one Kalakonda Madhu (hereinafter referred to as 'the detenu') under the provisions of sub-section (2) of Section 3 of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short, 'the Act'), is assailed in this writ petition, by the father of the detenu.

2. It is a matter of grave concern that a person holding the position of Manager of the Food Corporation of India (FCI) is allegedly indulging in activities of rape, outraging of modesty of women, cheating, eve-teasing, etc., since 2013. A perusal of the detention order dt.2.11.2015 shows that the detenu was involved in as many as three offences within a span of two months in the year 2015. The allegations on which the cases were registered against him are rather grave, not befitting the position of a Manager of the FCI.

3. In the grounds of the detention, it is alleged that in the month of August, 2015 the detenu telephoned Mrs. Savitri Devi, W/o. Srinivas, aged about 39 years, R/o. Secunderabad, made her believe that he is from Social Welfare Department, providing free EAMCET coaching, took particulars of her daughter Varshini, aged about 19 years, student, and also her phone number, and he started following said Varshini at her college, and bus stop and abusing her family in filthy language in the name of love. That the mother, daughter, their family members and other girls were panicked and scared. The detenu was arrested on 22.10.2015 in connection with the said incident registered as Crime No.349 of 2015 of Gandhinagar Police Station.

In yet another incident allegedly happened in August/September, 2015, the detenu was frequently telephoning and

messaging Mr. D. Surender Babu, S/o. D.P. Swami Dass, R/o. Tadbund, Secunderabad and his daughter D. Sheba, student, using vulgar language towards the girl. Crime No.365 of 2015 was registered against the detenu under Section 354-D IPC, in Bowenpally Police Station. He was arrested on 22.10.2015 and remanded to judicial custody through PT warrant, on 6.11.2015.

In another incident allegedly taken place in August, 2015, the detenu frequently telephoned Mrs. Padma, W/o. Ganesh Reddy, R/o. New Nallakunta, Hyderabad. He introduced himself as B. Tech. 1st Year State topper and started harassing in abusive and vulgar language.

Based on the above noted activities, respondent No.2 has passed detention order dt.12.11.2015 wherein he has *inter alia* stated as under:

"I am aware that you were arrested on 22.10.2015 in Cr. No.309/2015 of Cyber Crime PS and remanded to judicial custody. You are still in judicial custody in Cr. Nos.1) 309/2015 of Cyber Crime PS, 2) 349/2015 of Gandhi Nagar PS, and 3) 365/2015 of Bowenpally PS. There is reliable material placed before me and on the basis of which I have reasons to believe that there is a possibility of your release on bail shortly and further on being released you would once again indulge in the similar activities, which are prejudicial to public order."

4. The detention was approved by respondent No.1 by G.O. Rt. No.3084, dt.23.11.2015, and on the report of the Advisory Board dt.20.12.2015, respondent No.1 has also confirmed the detention order by G.O. Rt. No.258, dt.4.2.2016.

5. Mr. N. Ramachander Rao, learned Senior Counsel appearing for the petitioner, submitted that the allegations against the detenu are false, that as on the date of passing of the detention order, the detenu was in judicial custody in connection with Crime No.309 of 2015 and that therefore the detaining authority has failed to apply his mind and has arrived at a wrong conclusion that there was a likelihood of the detenu repeating the offences.

6. The law is well-settled that satisfaction of the detaining authority

is subjective and that except in cases where mala fides are alleged the Court has no jurisdiction to examine the material based on which the subjective satisfaction is arrived at, in order to know whether the subjective satisfaction was properly arrived at or not (See *Ram Manohar Lohia v. State of Bihar*^[1] and *M.R. Subrahmaniyan v. State of Tamil Nadu*^[2]).

7. The learned senior Counsel placed reliance upon the judgment of the Supreme Court in *N. Meera Rani v. Government of Tamil Nadu*^[3], and submitted that as the detenu was in judicial custody as on the date of the detention, the impugned detention order cannot be sustained.

8. In *N. Meera Rani* (3 supra), after considering the case law on the subject, the Supreme Court summarized the principle as under:

*“We may summarise and reiterate the settled principle. Subsisting custody of the detenu by itself does not invalidate an order of his preventive detention and the decision must depend on the facts of the particular case; preventive detention being necessary to prevent the detenu from acting in any manner prejudicial to the security of the State or to the maintenance of public order etc. ordinarily it is not needed when the detenu is already in custody; **the detaining authority must show its awareness to the fact of subsisting custody of the detenu and take that factor into account while making the order; but, even so, if the detaining authority is reasonably satisfied on cogent material that there is likelihood of his release and in view of his antecedent activities which are proximate in point of time he must be detained in order to prevent him from indulging in such prejudicial activities, the detention order can be validly made even in anticipation to operate on his release. This appears to us, to be the correct legal position.**”*

(emphasis added)

From the above reproduced portion of the judgment, it is clear that subsisting custody of the detenu by itself does not invalidate an order of the preventive detention and that if the detaining authority shows its awareness to the fact of subsisting custody and likelihood of his release, a detention order could be validly made to prevent the offender from indulging in his activities which are likely to be prejudicial to the public order after his release from judicial custody.

In that case, the Supreme Court has quashed the detention order on the ground that though the detention order read with its annexures indicate the detaining authority's awareness of the fact of detenu's jail custody at the time of making of the detention order, there is no indication in the order that the detaining authority considered it likely that the detenu could be released on bail.

9. In the instant case, from the portion of the order extracted hereinbefore, it is clear that respondent No.2, who is not only aware of the fact that the detenu was in judicial custody, but he has also observed that there is reliable material placed before him on the basis of which she has reason to believe that there is a possibility of release of the detenu shortly and that on being released he would once again indulge in similar activities. Therefore, the impugned detention order does not suffer from the defect the Supreme Court pointed out in *N. Meera Rani* (3 supra).

10. For the aforementioned reasons, we do not find any illegality or procedural impropriety in the impugned orders of detention and confirmation. Hence, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P. No.6077 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

G. SHYAM PRASAD, J

22-06-2016

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Note: LR copies to be marked.

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[\[1\]](#) AIR 1966 SC 740

[\[2\]](#) (2012) 4 SCC 699

[\[3\]](#) (1989) 4 SCC 418