

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY  
AND  
THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

WRIT PETITION NO.27595 OF 2016

DATED:21-12-2016

Between:

K. Kistiah ... Petitioner

And

The State of Telangana  
Rep. by its Chief Secretary  
General Administration Department  
(Law & Order)  
Secretariat  
at Hyderabad  
and another

... Respondents

COUNSEL FOR THE PETITIONER: Mr. G.L. Narasimha Rao

COUNSEL FOR THE RESPONDENTS: A.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 Katravath Tirupathi @ Burro, 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 questioned on multiple grounds.

A perusal of the grounds of detention shows that though while describing the crimes numbering three, the provision of law was correctly mentioned as Section 392 IPC, in the impugned detention order respondent No.2 has mentioned the provision of law as Section 372 IPC under which two crimes have been registered. Since the action of the State in resorting to preventive detention violates the fundamental right of life and liberty of a citizen, the detention order must not suffer from non-application of mind.

As pleaded by the petitioner there is a huge variation in the scope of the provisions of Sections 392 and 372 IPC, the latter being a more serious offence and such being the case, it is reasonable to presume that respondent No.2 might have been influenced by the gravity of the offence under Section 372 IPC while ordering detention of the detenu. As the impugned detention order suffers serious non-application of mind, the same cannot be sustained.

The writ petition is therefore allowed and the impugned detention order, which was confirmed by respondent No.1 vide G.O. Rt. No.1308, General Administration (Law & Order) Department, dt.10.06.2016 is set aside. The detenu is directed to be released from the detention forthwith, if he is not required in any other criminal case.

As a sequel to disposal of the writ petition, W.P.M.P. No.34183 of 2016 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

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M.S.K. JAISWAL, J

21-12-2016

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