

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

WRIT PETITION No.16372 of 2016

DATED:- 01-11-2016

Between:

Fouzia Sulthana

..... PETITIONER

AND

The State of Telangana, rep.by its Secretary,
Home Department,
Secretariat, Hyderabad and 4 others

.....RESPONDENTS

COUNSEL FOR THE PETITIONER : Mr.S.MIR MASOOD ALI KHAN

COUNSEL FOR RESPONDENTS : G.P.FOR HOME (TG)

THE COURT MADE THE FOLLOWING:



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

WRIT PETITION No.16372 of 2016

JUDGMENT: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

Order, dated 22.04.2016, of respondent No.2, whereby he has ordered the detention of one Abdul Majid Altaf Osmani (for short, "the detenu"), the husband of the petitioner, is questioned in this writ petition, filed for issue of Habeas Corpus.

A perusal of the impugned order of detention shows that respondent No.2 has referred to 7 offences against the detenu, but relied upon only 3 offences, viz., Cr.Nos.100/2016, 103/2016 and 107/2016, all are of Abid Road Police Station, registered for the offence under Section 379 IPC. The gravamen of the allegations against the detenu is that he was habitual offender, committing the theft of Honda Active Scooters. Respondent No.2, *inter alia*, stated in the detention order as under:

"Thus, you have indulged in the acts of goondaism by action as a member of gang and committed series of property offences by committing theft of two wheelers in the limits of Hyderabad Police Commissionerate and thus you have created terror and fear in the minds of the general public and thereby you are disturbing the public order and tranquility in the area."

The learned counsel for the petitioner strenuously argued that the allegation that the detenu was acting as a member of gang is wholly without any basis and that no material is supplied to the detenu to substantiate the same.

The learned Govt. Pleader for Home (TG) fairly conceded that the observation that the detenu was a member of gang is not a correct statement.

In our opinion, the activities of an individual are less intensive compare to that of a gang. While invoking the provisions of an enactment, like Preventive Detention Act, the perception of detaining authority towards an individual offender surely varies with that of a gangster. The law is well settled that a detention order passed on a non-existent ground or a wrong premise, is liable to be set aside. In this view of the matter, the impugned order, as approved and later confirmed by respondent No.1, cannot be sustained and the same is accordingly set aside. The detenu shall be released forthwith, if he is not otherwise required in any other case.

The Writ Petition is accordingly allowed. No order as to costs.

As a sequel to disposal of the Writ Petition, WPMP No.20233 of 2016, filed by the petitioner for interim relief, shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY,J

M.S.K.JAI SWAL,J

Date: 01.11.2016
Dsr