

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No. 21371 OF 2016

DATED 15TH NOVEMBER, 2016

Between:

Mohd. Zaheer

... Petitioner

AND

The State of Telangana,
Rep. by its Principal Secretary to the
Home Department,
Secretariat Buildings,
Hyderabad, and others

... Respondents

Counsel for the petitioner

:

Sri K.Venumadhav

Counsel for the respondents

:

G.P. for Home (T.S.)

THE COURT MADE THE FOLLOWING

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

This Writ Petition is filed for producing Mohd. Zakir Ali (hereinafter referred to as 'the detenu'), the son of the petitioner, and for setting him free from detention by issue of *Habeas Corpus*.

2. We have heard Sri K.Venumadhav, learned counsel for the petitioner, and learned Government Pleader for Home (T.S.).

3. The detenu was allegedly indulging in theft of mobile phones by heading a gang along with another person by name Yousuf. As per the impugned detention order dated 14-06-2016, the detenu and his gang have stolen as many as nine mobile phones, thereby disturbing the public order. The detenu was stated to have been taken into custody on 27-05-2016 after arrest and produced before the jurisdictional magistrate on 28-05-2016. Between 02-06-2016 and 13-06-2016, the detenu was released on bail under different bail orders connected with the criminal cases registered for alleged theft of the nine mobile phones. After the release of the detenu on 13-06-2016, the impugned detention order was passed on 14-06-2016 by respondent No. 3, in pursuance of which he was taken under detention. The main ground of challenge to this detention order by the petitioner is that all the criminal cases were foisted against the detenu and the mobile phones were planted, by forcing the friends of the detenu to buy new cell phones, showing them as having been seized from the custody of the detenu.

4. A detailed counter affidavit has been filed, wherein it has been stated that the detenu is a gang leader operating in tandem with another person by name Yousuf and that by taking the assistance of the other gang members by name Syed Noor, Syed Aslam, Shahensha, Osman and Shafi, they have been

committing theft of mobile phones, thereby disturbing the even tempo of public life. It is further averred in the counter affidavit that the detention order was approved under G.O.Rt.No. 1404, General Administration (Law & Order) Department, dated 20-06-2016 and that the Advisory Board has reviewed the detention and recommended for the continuance of the detention. The counter affidavit further stated that before the detention order was confirmed, the petitioner has filed this Writ Petition. During the hearing, it has come out that on 08-09-2016, respondent No. 1 has issued G.O.Rt.No. 975 confirming the detention order.

5. As regards the only submission of learned counsel for the petitioner that all the criminal cases are foisted and that the mobile phones were planted and that, therefore, the detention order, based on the false allegations and manipulations by police, cannot be sustained, in a catena of decisions, the Supreme Court held that an order of detention may be made on the subjective satisfaction of the detaining authority that the detention of a person is necessary to prevent disturbance to the public order and that the Courts, while exercising *Habeas Corpus* jurisdiction, will not review such subjective satisfaction (See ***The State of Bombay Vs. Atma Ram Sridhar Vaidya***¹, ***Rameshwar Shaw Vs. District Magistrate, Burdwan***², ***Dr. Ram Manohar Lohia Vs. State of Bihar***³, ***Union of India Vs. Paul Manickam***⁴, ***Pebam Ningol Mikoi Devi Vs. State of Manipur***⁵ and ***M.R. Subramanian Vs. State of Tamil Nadu***⁶). In the instant case, the criminal cases pertaining to the alleged theft of mobile phones are still

¹ AIR 1951 SC 157

² (1964) 4 SCR 921 : AIR 1964 SC 334

³ AIR 1966 SC 740 : 1966 SCR (1) 709

⁴ (2003) 8 SCC 342

⁵ (2010) 9 SCC 618

⁶ (2012) 4 SCC 699

pending. Therefore, this Court cannot render any finding as to whether the detenu is guilty of commission of those offences or not. The grounds of detention, taken on their face value, would reveal that the detenu has been indulging in stealing of mobile phones in public places by maintaining a gang. These allegations, if true, in our opinion, would certainly disturb the public order. In this view of the matter, we do not find any Constitutional or legal infirmity in the impugned detention order warranting our interference with the same.

6. The Writ Petition is, accordingly, dismissed.

7. As a sequel to dismissal of the Writ Petition, W.P.M.P.Nos. 26225, 39742 and 48520 of 2016 shall stand dismissed as infructuous.



C.V.NAGARJUNA REDDY, J.

A.V.SESHA SAI, J.

Date: 15-11-2016.

JSK