

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

WRIT PETITION NO.24555 OF 2016

DATED:30-11-2016

Between:

Smt. Salma Begum ... Petitioner

And

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

COUNSEL FOR THE PETITIONER: Mr. K. Venumadhav

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 Mr. Syed Noor @ Syed Baam, is questioned in this writ petition, by his wife.

2. At the hearing, it is not disputed that in the case of the co-accused, namely, Mohd. Zakir Ali, this Court on 15.11.2016 has dismissed Writ Petition No.21371 of 2016 filed questioning his detention. Mr. K. Venumadhav, learned counsel for the petitioner, while fairly submitting that both the accused are co-accused in all the cases registered against them for which they have been detained, however, submitted that some of the points which were relevant could not be raised in the said writ petition. He has further submitted that the detention order is vitiated as respondent No.3 has failed to consider two aspects, namely, (i) that he has failed to look into the statements recorded under Section 161 of CrPC in the criminal cases registered against the detenu and (ii) that he did not consider in proper perspective the fact that the two criminal cases, namely, Crime No.36 of 2006 of Jubilee Hills Police Station and Crime No.129 of 2010 of Asifnagar Police Station ended in acquittal. In support of his submission, the learned counsel placed reliance on the judgment of this Court in *A. Raja Reddy v. Collector and District Magistrate*¹.

3. The learned Government Pleader for Home (TS) opposing the above submissions submitted that in every case it is not necessary to look into every material, such as, statements recorded under Section 161 of CrPC. He has relied upon the judgment of the Supreme Court in *Vinod K. Chawla v. Union of India*² to buttress his submission. With regard to the second submission of the learned counsel for the petitioner, the learned Government Pleader submitted that respondent No.3 has applied his mind

¹ 1996 (4) ALT 305

² (2006) 7 SCC 337

to the fact of acquittal of the detenu in Crime No.36 of 2006 and Crime No.129 of 2010 as evident from the impugned detention order itself and that therefore the judgment in *A. Raja Reddy* (1 supra) relied upon by the learned counsel for the petitioner has no application.

4. In *K. Varadharaj v. State of Tamil Nadu*³, the Supreme Court after referring to *M. Ahamedkutty v. Union of India*⁴ and *Abdul Sathar Ibrahim Manik v. Union of India*⁵ observed that placing of the application for bail and the order made thereon is not always mandatory and that such requirement would depend upon the facts of each case, and ultimately rejected the contention raised by the detenu in that regard. This view was reiterated in *Sunila Jain v. Union of India*⁶. In *Vinod K. Chawla* (2 supra), the Supreme Court while reiterating the above legal position held that mere fact that sponsoring authority did not place the statement made by Asheesh Chawla before the Court of ACMM, New Delhi, before the detaining authority, cannot lead to an inference that the formation of opinion and the subjective satisfaction of the detaining authority are vitiated in any manner.

5. In the light of the law laid down as above, we are of the opinion that unless specific prejudice is pleaded by the detenu on account of the alleged non-perusal of the statements recorded under Section 161 of CrPC, the detention order cannot be invalidated.

6. With regard to his second submission, the learned counsel has placed reliance on *D.S. Agarwal v. Police Insurance Corporation Commissioner*⁷, which was referred to and relied upon by this Court in *A. Raja Reddy* (1 supra). In *D.S. Agarwal* (7 supra) admittedly the detaining

³ (2002) 6 SCC 735

⁴ (1990) 2 SCC 1

⁵ (1992) 1 SCC 1

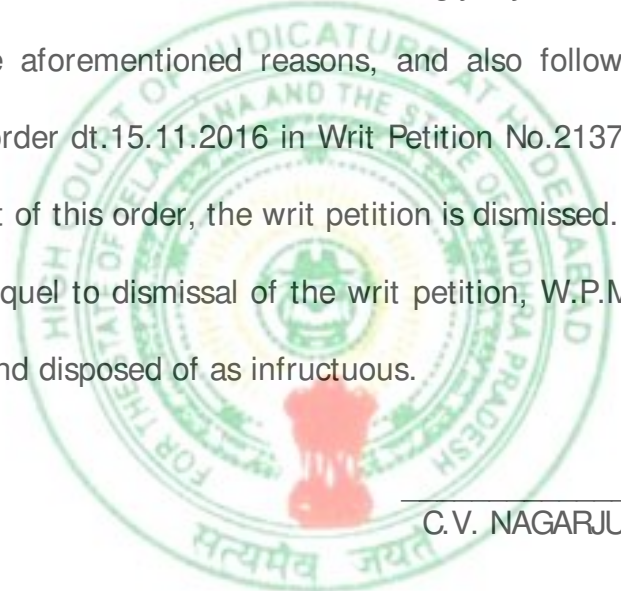
⁶ (2005) 3 SCC 321

⁷ AIR 1989 SC 1282

authority did not take note of the fact that out of five criminal cases, two criminal cases were shown as pending trial even though the said cases in fact ended in acquittal even prior to the passing of the detention order. In the present case, it is pertinent to note that the two crimes in which the detenu was acquitted were not included in the grounds of detention. In the impugned detention order respondent No.3 has clearly taken note of the acquittal of the detenu in both Crime No.36 of 2006 and Crime No.129 of 2010. Therefore, we do not find any merit in this ground also. Thus, the additional grounds raised by the learned counsel for the petitioner are without any merit and the same are accordingly rejected.

7. For the aforementioned reasons, and also following the reasons contained in order dt.15.11.2016 in Writ Petition No.21371 of 2016 which shall form part of this order, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P. No.30330 of 2016 shall stand disposed of as infructuous.



C.V. NAGARJUNA REDDY, J

M.S.K. JAISWAL, J

30-11-2016

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*Note: LR copies to be marked.
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