

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

WRIT PETITION NO.13365 OF 2016

O R D E R

(per Hon'ble Sri Justice Sanjay Kumar)

The prayer of the petitioner in this case is for a writ of Habeas Corpus to produce his wife, Smt. Kamale Suman Bai alias Sangeeta alias Geetha, and to release her forthwith after declaring the order of detention dated 20.02.2016 passed against her as illegal and unconstitutional.

By the detention order dated 20.02.2016 passed in exercise of power under Section 3(2) of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for brevity, 'the Act of 1986'), the Commissioner of Police, Hyderabad City, subjected the petitioner's wife to detention and the said detention was approved by the Government of Telangana under G.O.Rt.No.507, General Administration (Law & Order) Department, dated 29.02.2016. Thereafter, vide G.O.Rt.No.1075, General Administration (Law & Order) Department, dated 16.05.2016, the Government of Telangana confirmed the subject detention and extended it for a period of 12 months from the date of commencement of the detention, 21.02.2016.

By way of his amended prayer in this writ petition, the petitioner subjected the confirmation G.O. also to challenge.

Though various grounds are sought to be urged by Sri Godey Satish, learned counsel for the petitioner, in support of his attack

against the subject detention, we are of the opinion that the matter is amenable to decision on a short ground.

The material placed before this Court reflects that the petitioner's wife is illiterate and is incapable of even signing her name. The documents relied upon by the detaining authority in arriving at subjective satisfaction in connection with her detention, which were also supplied to her, bear only her thumb impression in proof of receipt. The receipt dated 21.02.2016 obtained by the Jailor, Special Prison for Women, Chanchalaguda, Hyderabad, from the detenu also records that she was explained the contents of the order of detention and the grounds of detention in Telugu and Hindi and had understood the same. This receipt also bears her thumb impression. Significantly, the receipt is incomplete in terms of the number of pages supplied to the detenu being left blank.

That apart, given the admitted fact that the detenu does not know English, there is no indication of translated copies of the English documents relied upon by the detaining authority, in support of the detention order, having been furnished to the detenu. Perusal of the affidavit filed in support of the writ petition demonstrates that the petitioner, the husband of the detenu, is also a marks man and is incapable of signing his name. It was therefore incumbent upon the State to make available translated copies of the documents relied upon by the detaining authority in a vernacular language at least understood by the detenu so that she could avail the assistance of her family and friends to have the same read over and explained to her so as to formulate her representation against her detention effectively.

In the light of the law laid down by this Court in W.P.No.4805 of 2016 dated 03.08.2016, reiterating the settled legal position to this effect, as was also laid down in **VASANTHU SUMALATHA V/s. STATE OF ANDHRA PRADESH REP. BY ITS CHIEF SECRETARY, HYDERABAD¹**, this Court necessarily has to infer that the State failed in its constitutional duty of making available to the detenu the material 'relied' upon by the detaining authority in a language at least understood by her. The failure in this regard invariably had an adverse effect on the detenu's constitutional right of effectively making a representation against her detention.

In the light of the admitted failure on the part of the State, this writ petition is allowed. We accordingly set aside the order of detention dated 20.02.2016 passed against the petitioner's wife, Smt. Kamale Suman Bai alias Sangeeta alias Geetha, and the consequential G.Os. The petitioner's wife, Smt. Kamale Suman Bai alias Sangeeta alias Geetha, shall be set at liberty forthwith unless her confinement is required in relation to any other case. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

M.SEETHARAMA MURTI, J

7th SEPTEMBER, 2016

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¹ 2016 (1) ALT 738 (D.B.)