

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

Writ Petition No.32550 of 2016

ORDER: (Per Hon' ble Sri Justice Sanjay Kumar)

The prayer of the writ petitioner in this case is as under:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Habeas Corpus direct the respondent No.3 to produce the illegal detainee Mr. Mohd. Wasifuddin Quadri forthwith before this Hon'ble Court and set him liberty by releasing from illegal custody and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

The petitioner claims to be the brother of the alleged detenu, Mohd. Wasifuddin Quadri.

It is not in dispute that the petitioner's brother has been subjected to detention in relation to the orders passed in CrI.M.P.No.485 of 2014 in M.C.No.175 of 2013 on the file of the learned Additional Metropolitan Sessions Judge for the Trial of Jubilee Hills Car Bomb Blast Case-cum-Additional Family Court-cum-XXIII Additional Chief Judge-cum-IX Additional Metropolitan Sessions Judge, Hyderabad.

Sri Ginne Malleswararao, learned counsel for the petitioner, would however contend that the detention of the petitioner's brother is not in conformity with Section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986. Learned counsel would seek to argue that the detention of the petitioner's brother in connection with M.C.No.175 of 2013 is therefore illegal and unsustainable.

Upon considering the matter in right earnest, we are of the opinion that the issue raised by the petitioner would not fall within the scope of a writ of habeas corpus. It is a settled position of law that a writ of habeas corpus is a procedural writ which would be issued in the event of illegal detention or illegal custody of a person. Determination

as to whether the detention of a person in relation to a pending case is legal or not would not fall within the scope of this writ. In the present case, as it is an admitted fact that the detention of the petitioner's brother is consequent to the judicial order passed in CrI.M.P.No.485 of 2014 in M.C.No.175 of 2013, we are of the opinion that the writ petition is not maintainable and on this short ground, it is dismissed. However, this order shall not preclude the petitioner or his brother from taking recourse to suitable remedies available to them in law. No order as to costs.

27.09.2016
VJI



JUSTICE SANJAY KUMAR

JUSTICE M. SEETHARAMA MURTI