

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION NO.5815 OF 2016

DATED:22-06-2016

Between:

Tulasi Bai ... Petitioner

And

The State of Telangana
Rep. by the Chief Secretary
Central Administration (Law and Order) Department
Secretariat Buildings
Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONER: Smt. B. Mohana Reddy

COUNSEL FOR THE RESPONDENTS: G.P. for Home (TS)

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THE COURT MADE THE FOLLOWING:

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

The detention of Mr. Suresh Singh, S/o. Bharath Singh, R/o. Mangalhat, Dhoolpet, Hyderabad (for short, 'the detenu'), under the provisions of Section 3(1) read with Section 2(a) and (b) of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986, is assailed in this writ petition, by the wife of the detenu.

Smt. B. Mohana Reddy, learned counsel for the detenu, submitted that as on the date of passing of the impugned detention order the petitioner was in judicial custody in connection with a criminal case registered against him and that respondent No.2 has not only not referred to judicial custody of the detenu, but also not recorded his satisfaction that if there is any possibility of the detenu coming out of the judicial custody and repeating the offences.

We find force in the submission of the learned counsel for the detenu, as a perusal of the detention order does not show that the detaining authority had awareness of the judicial custody of the detenu, besides the fact that he has failed to record his satisfaction that there is a likelihood of the detenu coming out of the judicial custody and repeating the offences.

In *N. Meera Rani v. Government of Tamil Nadu*^[1] the Supreme Court has set aside the detention order on identical set of facts. In this context, paragraph 23 of the judgment is apt to be reproduced below.

"Applying the above settled principle to the facts of the present case we have no doubt that the detention order, in the present case, must be quashed for this reason alone. The detention order read with its annexure indicates the detaining authority's awareness of the fact of detenu's jail custody at the time of the making of the detention order. However, there is no indication therein that the detaining authority considered it likely that the

detenu could be released on bail. In fact, the contents of the order, particularly, the above quoted para 18 show the satisfaction of the detaining authority that there was ample material to prove the detenu's complicity in the Bank dacoity including sharing of the booty in spite of absence of his name in the FIR as one of the dacoits. On these facts, the order of detention passed in the present case on September 7, 1988 and its confirmation by the State Government on October 25, 1988 is clearly invalid since the same was made when the detenu was already in jail custody for the offence of bank dacoity with no prospect of his release. It does not satisfy the test indicated by the Constitution Bench in Rameshwar Shaw v. District Magistrate, Burdwan (AIR 1964 SC 334). We hold the detention order to be invalid for this reason alone and express no opinion on merits about the grounds of detention.”

For the afore-mentioned reasons and following the ratio laid down in *N. Meera Rani* (supra), the impugned orders of detention and its confirmation cannot be sustained in law and the same are accordingly set aside.

The writ petition is accordingly allowed. The detenu shall be released from the detention forthwith.

As a sequel to disposal of the writ petition, W.P.M.P. No.22396 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

G. SHYAM PRASAD, J

22-06-2016

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[\[1\]](#) (1989) 4 SCC 418