

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

WRIT PETITION NO.24421 OF 2016

DATED:30-11-2016

Between:

K.S. Prithviraj ... Petitioner

And

The State of Telangana
Rep. by its Principal Secretary
Home Department
Secretariat Building
Hyderabad, TS,
and others

... Respondents

COUNSEL FOR THE PETITIONER: Mr. Mohammed Abdul Qader

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)

This writ petition is filed for issue of *habeas corpus* to release Smt. Kamble Devika @ Shannu (hereinafter referred to as 'the detainee') from the detention, by quashing the order of detention dt.16.04.2015 of respondent No.2.

2. We have heard Mr. Mohammed Abdul Qader, learned counsel for the petitioner, and the learned Government Pleader for Home (TS).

3. A perusal of the impugned detention order shows that the detainee was involved in nine cases of burglary since 2012. However, respondent No.2 relied upon four cases, namely, Crime Nos.130, 194, 200 and 204 of 2014 of Charminar Police Station, all registered for the offences under Sections 457 and 380 of IPC. It was alleged that the detainee has been habitually breaking the locks of the shutters and committing theft of articles such as sarees, artificial jewellery, cash etc., and that due to the criminal activities of the detainee, even tempo of public life is disturbed thereby disturbing public order. It needs to be noted that the detention order was passed on 16.4.2015 and the detainee has successfully evaded the arrest and detention and ultimately the Police could apprehend her ten months after passing of the detention order, i.e., on 15.02.2016.

4. The petitioner filed W.P.M.P. No.46033 of 2016 for permitting him to file additional affidavit raising certain new grounds such as, that the detainee is an illiterate lady and she understands Hindi language, whereas the order of detention and the material connected therewith were served in English and Marathi languages and that the material was also illegible. It is further averred that the order of detention was passed on 16.4.2015, that the detainee was arrested on 15.2.2016, that though the detention order stand lapsed on 16.4.2016 itself, the Government vide G.O. Rt.

No.944, dt.29.4.2016 confirmed the order of detention counting the period of twelve months from the date of arrest, i.e., 15.2.2016. By a separate order, this application was allowed.

5. A detailed counter affidavit has been filed by respondent No.2 wherein it is *inter alia* stated that the material based on which the detention order was passed, was supplied in Marathi language at the request of the detainee and that in any event the Police Officer who served the material has explained the contents thereof to the detainee both in Hindi and Telugu. It is further averred that the detainee is an illiterate and therefore the contents of the documents were properly explained to her in Hindi and Telugu. It is also stated that the activities of the detainee are creating fear and panic in the public and that the public are feeling insecure on account of the criminal activities of the detainee.

6. At the hearing, learned counsel for the petitioner raised the following grounds. (i) That the material in support of the detention was not supplied to the detainee in the language known to her, i.e., Hindi, (ii) that the material supplied to the detainee does not bear any date and thereby it could be presumed that the respondents did not supply the material within five days of her detention as envisaged under Section 8 of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986; and (iii) that there was complete non-application of mind on the part of respondent No.2, in that, all the witnesses cited in all the four crimes are common which clearly shows that they are all foisted on the detainee.

7. As regards the first submission of the learned counsel for the petitioner, the learned Government Pleader has placed before us the

original record, a perusal of which shows that the detenue has affixed her thumb impression on the acknowledgement, which reads as under:

"Acknowledgement"

I, Kamble Devika @ Shannu, W/o.Mallaiah K., Age: 30 years; Occ: Ragpicker, R/o. H. No.11-1-A/251/AA, Manger Basthi, Habeeb Nagar, received all the following documents.

- 1. Detention order (English & Marati)*
- 2. Grounds of detention (English & Marati)*
- 3. List of documents relied on S. Nos. 1 to 17.*

The officer who served above documents before Jailor, Chanchalguda Women' Jail informed the matter in Hindi and Telugu language. As such, I am giving acknowledgement.

JAILOR
Spl. PRISON FOR WOMEN
CHANCHALGUDA, HYDERABAD

Devika @ Shannu
(RTI of Devika)"

On the left side bottom of the acknowledgement, the Jailor of the Special Prison for Women, Chanchalguda, has affixed her signature and seal. Since the detenue is an illiterate, what is necessary is to explain the contents in the language known to her. Even according to the petitioner, the detenue knows Hindi. It is evident from the above extracted acknowledgement that the contents of the documents were explained to the detenue in Hindi language. Hence, we do not find any merit in the first submission of the learned counsel for the detenue.

8. With regard to the second submission that the material was not supplied within five days of her detention, no specific ground has been raised on behalf of the detenue. The original record placed before us clearly shows that the material was indeed supplied to the detenue, though the record does not disclose the date on which the material was supplied. In the absence of any specific ground raised in the writ petition that the material was not supplied within time, this submission is liable to be rejected.

9. As regards the last submission, no doubt the witnesses cited in all the four cases included in the grounds of detention are common, but that by itself it cannot be concluded that all the four cases are foisted against the detainee. The law is well-settled that the detaining authority is empowered to order detention of a person based on subjective satisfaction that his/her criminal activities have the effect of disturbing public order and that the High Court exercising jurisdiction under Article 226 of the Constitution of India will not examine whether such subjective satisfaction is correctly arrived at or not. Therefore, it is not permissible for this Court to delve into the merits of each criminal case included in the grounds of detention in order to examine the validity or otherwise of the detention order.

10. Lastly, the learned counsel for the petitioner submitted that there is long delay in rejecting the representation of the petitioner thereby vitiating the detention order for non-compliance of Article 22(5) of the Constitution of India. A perusal of the grounds on which the detention order has been questioned in the writ petition shows that a very vague ground has been raised in paragraph 11 to the effect that the order of detention was confirmed by the Government without any subjective satisfaction and with abnormal delay in rejecting the independent representation of the detainee submitted to all the authorities in a casual, laconic and mechanical manner. It is evident from this ground that the petitioner has not given the exact date on which the detainee has made representation and the date of its purported rejection. The learned counsel for the petitioner submitted that he has no instructions in this regard. In the absence of proper details of the date of representation and

its rejection, we cannot interfere with the detention order on the ground of delay in disposal of representation.

11. For the aforementioned reasons, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P. No.30102 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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