

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

W.P.Nos. 13933 AND 13949 OF 2016

DATED 19TH OCTOBER, 2016

W.P.No. 13933 OF 2016

Between:

Mukesh ... Petitioner

AND

The State of Telangana,
Rep. by its Principal Secretary (Home),
Secretariat, Hyderabad, and others ... Respondents

W.P.No. 13949 OF 2016

Between:

Sandeep Agarwal ... Petitioner

AND

The State of Telangana,
Rep. by its Principal Secretary (Home),
Secretariat, Hyderabad, and others ... Respondents

Counsel for the petitioners : Sri M.A.K.Mukheed

Counsel for the respondents : G.P. for Home (T.S.)

THE COURT MADE THE FOLLOWING

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

These two Writ Petitions raised identical issues. Therefore, they are heard and being disposed of together.

2. The petitioners in these Writ Petitions are natural brothers and at relevant point of time, they were also Directors of M/s. Value Added Card Private Limited. The petitioners were detained under the provisions 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'). The said orders were subsequently approved by respondent No. 1 *vide* G.O.Rt.No. 3416 G.A. (Law & Order) Department dated 28-12-2015 and G.O.Rt.No. 3417 G.A. (Law & Order) Department 28-12-2015 against the petitioners respectively. On the report submitted by the Advisory Board, detention orders of both the petitioners were confirmed by G.O.Rt.No. 608 dated 09-03-2016 and G.O.Rt.No. 590 dated 05-03-2016 respectively. It is pertinent to mention in this context that while the petitioners are A8 and A7, one person by name Mahavir Singh Yadav, brother of Mahipal Singh Yadav (A1), filed W.P.No. 3942 of 2016, wherein grounds identical to that raised in these two Writ Petitions were raised. A Division Bench of this court, *vide* its order dated 08-09-2016, dismissed the said Writ Petition confirming the detention of A1. Following the same reasons and observations contained in the said order, these Writ Petitions are also liable to be dismissed.

3. Sri M.A.K.Mukheed, learned counsel for the petitioners, submitted that his clients are not well educated, that they have studied only up to X class in an open school and that they are not familiar with English language. He has further submitted that as the respondents have failed to supply the material in the

language known to the petitioners, namely; Hindi, the detention orders are liable to be set aside.

4. In the counter affidavits filed on behalf of the respondents, it is *inter alia* averred that the petitioners are well educated having studied up to XII standard and graduation (discontinued) respectively and that being the Directors of M/s. Value Added Cards Private Limited, they can understand English language very well and that, therefore, there is no need to supply the material in their mother tongue. In the confessional statement of the petitioner in W.P.No. 13933 of 2016, he has *inter alia* stated that he has studied up to XII standard; that in the year 2009, he has joined M/s. Davision Portfolio Management Services Private Limited at Noida as Tele caller team leader where his younger brother Sandeep Agarwal (the petitioner in W.P.No. 13949 of 2016) used to work as Tele caller team leader and that while working there, himself and his younger brother (the petitioner in W.P.No. 13949 of 2016) became friends with Sri Sandeep Juneja, resident of New Delhi, and Mahipal Yadav, resident of Gurgaon (A1), who were also working as Tele caller team leaders. In the confessional statement of the petitioner in W.P.No. 13949 of 2016, he has *inter alia* stated that he has discontinued B.A. degree; that he has joined M/s. Davision Portfolio Management Services Private Limited at Noida as Tele caller team leader and that he has also allegedly worked along with his elder brother Mukesh (the petitioner in W.P.No. 13933 of 2016) in various other companies as Tele caller team leaders before finally joining M/s. Value Added Card Private Limited as directors. No reply affidavits are filed to controvert the aforementioned averments contained in the counter affidavits of the respondents.

5. Learned counsel for the petitioners strenuously submitted that the confessional statements made before police are not admissible in evidence and that, therefore, the contents thereof cannot be relied upon.

6. A Division Bench of this Court, speaking through one of us (CVNR, J.), in ***Girish Kumar Makhija Vs. The State of Telangana***¹, discussed the relevancy and admissibility of the confessional statements as well as the statement recorded under Section 161 of the Code of Criminal Procedure, 1973, as under:

"One of the submissions of the learned Senior Counsel as noted above is that the confessional statements of the detenus and the statements of their alleged employees cannot constitute legal evidence. No doubt in a criminal trial, the confessional statements of an accused do not constitute proof of commission of offence under Section 25 of the Indian Evidence Act, as the criminal law jurisprudence does not recognize the self-inculpation in the presence of Police. The only exception to this Rule is contained in Section 27 of the Indian Evidence Act, to the limited extent of admissibility of the portion of the confession leading to the discovery of the material used in the commission of offence. Similarly, the statements under Section 161 of Cr.P.C. do not constitute evidence and they can be used only for the purpose of contradictions by the accused. It would be well to remember that this material is not being relied upon by the State for securing the conviction of the detenus and they only constitute prima facie material for the detaining authority to arrive at its subjective satisfaction. Since the law is well-settled that the subjective satisfaction is not justiciable, the Court cannot even look into the material based on which the detaining authority has arrived at the decision."

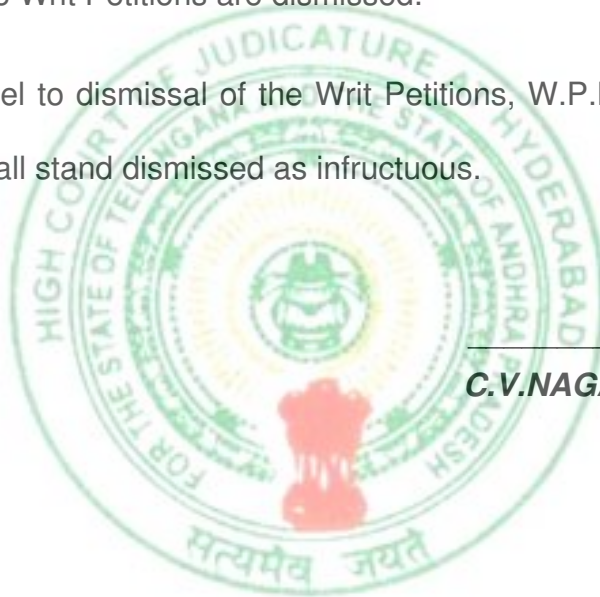
7. The fact that the petitioners have worked as Tele caller team leaders in the companies in which they have previously worked is not in dispute. It is common knowledge that a Tele caller cannot claim ignorance or lack of proficiency in English language. Added to this, while the learned counsel for the petitioners submitted that his clients have studied up to X class, their

¹ 2016 SCC Online Hyd 202

confessional statements purported to have been recorded by the police cannot be brushed aside as there is no warrant to suspect the police to make any embellishment insofar as the educational qualifications of the detenus are concerned. In the light of these facts, we are not in a position to accept the submission of learned counsel for the petitioners that the detenus are not familiar with English language and that they have suffered prejudice on account of non-supply of translated copies of the material in Hindi.

7. For the aforementioned reasons and following the order in Mahavir Singh Yadav (*supra*), the Writ Petitions are dismissed.

8. As a sequel to dismissal of the Writ Petitions, W.P.M.P.Nos. 17393 and 17415 of 2016 shall stand dismissed as infructuous.



C.V.NAGARJUNA REDDY, J.

M.S.K.JAISWAL, J.

Date: 19-10-2016.

JSK