

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

AND

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

W.P.No. 25318 OF 2016

DATED 21ST DECEMBER, 2016

Between:

Barla Naveen Kumar

... Petitioner

AND

The State of Telangana,
Rep. by its Principal Secretary (Political),
General Administration (Law & Order) Department,
Secretariat, Hyderabad, and others

... Respondents

Counsel for the petitioner : Sri H.Sudhakar Rao

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

THIS COURT MADE THE FOLLOWING

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

The detention of one Barla Naresh Kumar (hereinafter referred to as 'the detenu'), the brother of the petitioner, 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, made by respondent No. 3, as approved and confirmed by respondent No. 1, is assailed in this Writ Petition.

2. A perusal of the impugned detention order shows that out of the four crimes registered against the detenu, three crimes have been mentioned in the grounds of detention. All the three crimes have been registered for the offences under Section 379 of the Indian Penal Code. The allegation against the detenu is that he has committed theft of Honda Activa Scooter on 04-02-2016 and two pieces of Dell Laptop on 02-03-2016 and 19-04-2016. In our opinion, the acts of the detenu, even if proved, show that he is a habitual offender indulging in theft of certain movable properties belonging to individuals and, therefore, these acts amount only to disturbance to law and order and not to the public order. As held by the Supreme Court in catena of decisions, the law of preventive detention being an exception to right to life and liberty, the same can be resorted to only if the activities of an offender have the effect of disturbing the public order. The Supreme Court further held that there is a distinction between law and order and public order in the sense that only in case where the even tempo of public life is disturbed, such activities are said to constitute disturbance to public order (See **Dr. Ram Manohar Lohia Vs. State of Bihar**¹, **Pushkar Mukherjee Vs. State of West Bengal**² and **Shymal Chakraborty Vs. Commissioner of Police, Calcutta**³).

3. Having regard to the nature of the offences alleged against the detenu, we are of the opinion that the detenu can be dealt with by applying the ordinary

¹ AIR 1966 SC 740

² (1969) 1 SCC 10

³ (1969) 2 SCC 426

penal laws and invocation of the detention law, which is held to be draconian in nature, is wholly inappropriate and illegal.

4. For the aforementioned reasons, the impugned detention order, as approved and confirmed by respondent No. 1, is set aside. The detenu shall be forthwith set at liberty if he is not required in connection with any criminal case.

5. The Writ Petition is, accordingly, allowed.

6. As a sequel to disposal of the Writ Petition, W.P.M.P.No. 31259 of 2016 shall stand closed as infructuous.

C.V.NAGARJUNA REDDY, J.

M.S.K.JAISWAL, J.

Date: 21-12-2016
JSK

