

HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

**HON'BLE SRI JUSTICE A. SHANKAR
NARAYANA**

WRIT PETITION No.37718 OF 2015

ORDER: (Per Hon'ble Sri Justice A. Shankar Narayana)

The detenu is Syed Afsaruddin. His brother, Syed Faseeh Uddin, is the petitioner, who sought a Writ of *Habeas Corpus* to cause production of the detenu and to declare the order of detention passed by respondent No.2 - Commissioner of Police, Hyderabad, in SB (I) No.472/PD/S-1/2015, dated 05.09.2015, and further order of confirmation made by respondent No.1 - State of Telangana, represented by its Principal Secretary, General Administration (Law and Order) Department, as illegal and invalid and set him free from detention.

2. The order of detention passed on 05.09.2015 would reflect as many as nine (9) cheating cases registered against the detenu since 2008 for the offences punishable under Sections 468, 420, 471 and 473 of Indian Penal Code, 1860 (IPC). The detaining authority resting on the material in the said nine (9) crimes, termed him as

‘goonda’ as defined under Section 2(g) of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short ‘ the Act’). On being satisfied that he has been habitually indulging in nine (9) cheating cases, creating fear and panic among public adversely affecting the public order and thus, acting in

a manner prejudicial to maintenance of public order, passed the order of detention. The relevant details have been shown in the memo of grounds for detention annexed thereto.

3. Turning to the grounds raised, the petitioner states that the order of detention was mechanically passed on vague, irrelevant, stale and non-existing grounds without application of mind to arrive at

a proper subjective satisfaction as required under the provisions of the Act. The second ground is that the detenu has been detained maliciously with full knowledge that the alleged activities of the detenu do not fall within the concept of threat to public order or causing danger to public and also prejudicial to the maintenance of public order, as the activities alleged do not cause grave or

widespread danger to life or public order.

4. It is stated that the various authorities under the Act perfunctorily and mechanically upheld the detention order contrary to the established principles of law. It is stated that in a catena of judgments, the Hon'ble Supreme Court and this Court held that the acts affecting the public order are distinct from those affecting law and order and that there is no issue of public order involved in the acts alleged against the detenu and they can only be considered as acts affecting law and order. It is stated that the acts alleged do not *prima facie* satisfy the ingredients of the offences alleged under Sections 420, 468 and 471 IPC and the authorities have ignored the orders of grant of bail to the detenu, and illegally invoked the provisions of the Act.

5. It is stated that the if acts alleged against the detenu are illegal and are violative of any provisions of penal laws, the normal recourse of ordinary law would be sufficient and there was no need of invocation of the Special Act. Thus, seeks to set aside the orders of detention and confirmation.

6. Respondent No.2, incidentally, the

detaining authority, filed counter, narrating what has been mentioned in the order, grounds of detention, the circumstances under which the order of detention was passed and the reasons which constrained him to pass the same. It is stated that all the mandatory provisions of the Act are strictly followed, and, therefore, there is no illegality or violation of any of the provisions of the Act. It is stated that on the request of the Station House Officer, Sanjeev Reddy Nagar Police Station, to clarify genuineness of the institutes and the certificates and degrees issued by Hyderabad Educational and Research Centre and its associated institutes viz., 'National Institute of Secondary Education', 'All India Institute of Health Sciences', 'Golconda National University', 'All India Institute of Business Management', 'All India Institute of Technology' and 'Indian Institute of Secondary Education' floated by the detenu, the Secretary, A.P. State Council of Higher Education, Hyderabad, informed through their letter, dated 06.04.2009, that such institutes are not in existence except 'Hyderabad Educational and Research Center', which is functioning without the approval of State Government and the same is against the provisions of the A.P. Education Act.

7. Respondent No.2 referred to arrest of the detenu in certain crimes and release on bail and other incidental cases in regard to crimes registered against him stating that the Advisory Board tendered its opinion that there is sufficient cause for his detention. Respondent No.1 made confirmation of the order of detention for a period of twelve (12) months.

8. Respondent No.2 placed reliance on the decisions of the Hon'ble Supreme Court in **Arun Ghosh v. State of West Bengal**^[1] and **Haradhan Saha v. State of West Bengal**^[2] in the context of drawing distinction concerning the area between 'law and order' and 'public order'. He has also placed reliance on the decision in **Subrahmanian v. State of Tamilnadu**^[3] on the principle of interference of the Court with subjective satisfaction reached by the detaining authority except in exceptional and extremely limited grounds and while stating that the detenu has been indulging in cheating public and thereby creating sense of fear, panic and insecurity in the minds of general public, which are prejudicial to maintenance of public order, justifies the order of detention passed and confirmation made by

respondent No.1

9. Heard Sri N. Naveen Kumar, learned counsel for the petitioner, and the learned Advocate General (TG) appearing for respondent No.1 - State and the learned Government Pleader for Home (TG) appearing for respondent No.2.

10. Learned counsel for the petitioner urged as many as five (5) main grounds. The first ground is that the invocation of provisions of the Act can only be done if the activities of detenu are prejudicial to maintenance of public order and that violation of law and order is not a ground for detention and in support of the same, placed reliance on the decisions in **Ram Manohar Lohia v. The State of Bihar and another**^[4], **Arun Ghosh's Case** (Supra 1), **K.K. Saravana Babu v. State of Tamilnadu**^[5], **Piyush Kantilal Mehta v. Commissioner of Police**^[6], **Smt. Vasnthu Sumalatha v. State of Andhra Pradesh**^[7], **Hameeda Begum v. State of Telangana**^[8], **Shreya Singhal v. Union of India**^[9].

11. Second, even assuming that the

allegations against the detenu are true, by no stretch of imagination, the offences said to have committed by him can be called prejudicial to public order and the detenu can be dealt with under the ordinary law, if it becomes imperative. For the said proposition, he relies on the decision of the Honourable Supreme Court in **K.K. Saravana Babu's Case** (Supra 5). Incidentally, it is also urged by him that the said allegation cannot have the effect of creating any feeling of insecurity or panic or terror among the members of public of the area in question giving rise to the question of maintenance of public order and placed reliance on the decision in **Piyush Kantilal Mehta's Case** (Supra 6).

12. Third, even assuming that the acts alleged against the detenu to be illegal or violative of any provisions of penal law, the normal recourse of ordinary law would be sufficient and there was no need of invocation of the Special Act and placed reliance on the decision in **Rekha v. State of Tamilnadu**^[10] and **Munagala Yadhamma v. State of A.P.**^[11] .

13. Fourth, there has been no proper subjective satisfaction reached by the authorities,

and, therefore, exercise of power in passing the order of detention is illegal and placed reliance on the decision of the Hon'ble Supreme Court in **Khudiram Das v. State of Bengal**^[12], **Bhut Nath Mete v. State of West Bengal**^[13] and **Vasnthu Sumalatha's Case** (Supra 7).

14. The last ground urged by him is that since the detenu was enlarged on bail by the competent Court of law, greater caution ought to have been exercised in scrutinizing the validity of the order of detention in preventive detention and placed reliance on the decision of the Hon'ble Supreme Court in **Vijay Narain Singh v. State of Bihar**^[14] and **Vasnthu Sumalatha's Case** (Supra 7).

15. The learned Government Pleader would submit that the detenu is well educated and the very endorsement made by him, dated 09.09.2015, shows that he has got every comprehension of legal consequences of a wrong done and is a graduate in Commerce as per the statement made by the detenu himself.

16. One of the main submissions of the learned Government Pleader is, that the detenu

has made an endorsement on the copy of the order of detention in his own writing in token of receipt of the order of detention and the documents, on the basis of which detention order was passed and the same is also filed, and, therefore, it cannot be said that he was unable to comprehend the purport of the orders as well as the documents and the activities alleged against him refer to nine crimes registered against him. The learned Government Pleader would submit that the subjective satisfaction reached by the detaining authority in passing the order of detention and the confirmation order made by respondent No.1 based on the opinion of the Advisory Board to detain the detenu and put the detenu under preventive detention do not suffer from any illegality and has been in strict adherence to constitutional safeguards, the said orders were passed.

17. We would like to state that most of the grounds agitated by the petitioner relate to subjective satisfaction recorded by the authorities. The only two other grounds are that the offences and allegations levelled against the detenu cannot be said to have created any feeling of insecurity or panic or terror amongst the public of the area in

question giving rise to the question of maintenance of public order, and the authority ought to have taken caution before exercising the power, keeping in view, the fact that the detenu was enlarged on bail by the competent Court of law, as the very same charge, which is to be tried by the criminal Court, constitutes the basis for passing the order of detention.

18. Though, the learned counsel referred to the authorities in support of each of the points raised by him, but submitted some of them, which we would like to advert to.

19. Concerning the ground that the provisions of the Act can only be moved if the activities of the detenu were prejudicial to the maintenance of public order, but not in relation to the violation of law and order, the learned counsel placed reliance on a catena of decisions:

i) In **Arun Ghosh's case** (supra 1), the Hon'ble Supreme Court has drawn the distinction between 'public order' and 'law and order', which is now well crystallized and settled. We are of the view, that there is no need to refer to the observations therein, which touch the factual aspect of that particular case.

ii) In **K.K. Saravana Babu's case** (supra 5), the very same aspect has been reiterated examining the activities of the detenu therein in paragraph Nos.31 and 32 thus:

“31. We have tried to deal with the important cases dealing with the question of "law and order" and "public order" right from Romesh Thappar to the latest case of R. Kalavathi. This court has been consistent in its approach while deciding the distinction between “law and order” and “public order”. According to the crystallized legal position, cases affecting the public order are those which have great potentiality to disturb peace and tranquillity of a particular locality or in the words of Hidayatullah, J. disturb the even tempo of the life of the community of that specified locality.

32. In the instant case, in the grounds of detention, two cases have been enumerated, one of which pertains to the offences punishable under sections 420, 465, 468 read with Sections 471 and 120-B IPC in Crime No.70 of 2006. Another case pertains to Crime No.364 of 2007 registered under Sections 420, 465, 466, 467, 468 read with Sections 471 and 120-B IPC. The facts of these cases have been carefully examined and even assuming the allegations of these cases as true, even then by no stretch of imagination, the offences committed by the detenu can be called prejudicial

to public order. The detenu can be dealt with under the ordinary criminal law if it becomes imperative.”

iii) In **Vasnthu Sumalatha’s case (supra 7)**, Hon’ble Division Bench of this Court has extensively dealt with the aspect of subjective satisfaction, in the light of the decisions of the Honourable Supreme Court, in paragraph Nos.41 and 42 including the violation of the right of the detenu to make an effective representation under Article 22 (5) of the Constitution. For the present purpose, we would like to extract what has been observed by the Division Bench in paragraph No.41, which reads thus:

“The subjective satisfaction of the detaining authority is, however, not wholly immune from judicial review. There is an area, limited though it be, within which the validity of the subjective satisfaction can be subjected to judicial scrutiny. As subjective satisfaction, is a condition precedent for exercise of the power conferred on the Executive, the Court can always examine whether the requisite satisfaction is arrived at by the authority. If it is not, the condition precedent would not be fulfilled, and the exercise of power would be illegal. (Khudiram Das MANU/SC/0423/1974 : (1975) 2 SCC 81). Subjective satisfaction notwithstanding, the detaining authority must exercise due care and caution and act fairly and

justly in exercising the power of detention. (Khudiram Das MANU/SC/0423/1974 : (1975) 2 SCC 81; Bhut Nath Mete MANU/SC/0412/1974 : (1974) 1 SCC 645). If there be found in the Statute, expressly or by implication, matters which the authority ought to have regard to, then, in exercising the power, the authority must have regard to those matters. The authority must call its attention to the matters which it is bound to consider. (Khudiram Das MANU/SC/0423/1974 : (1975) 2 SCC 81). The satisfaction of the authority must be grounded "on materials which are of rationally probative value". The grounds on which the satisfaction is based must be such as a rational human being can consider as being connected with the fact in respect of which the satisfaction is to be reached. They must be relevant to the subject-matter of the inquiry and must not be extraneous to the scope and purpose of the Statute. If the authority has taken into account, it may even be with the best of intention, as a relevant factor something which it could not properly take into account in deciding whether or not to exercise the power or the manner or extent to which it should be exercised, the exercise of the power would be bad. (Khudiram Das MANU/SC/0423/1974 : (1975) 2 SCC 81; Pratap Singh v. State of Punjab MANU/SC/0272/1963 : AIR 1964 SC 72; Machindar v. King MANU/FE/0008/1950 : AIR 1950 FC 129)."

iv) In **Hameeda Begum's case** (supra 8), yet another Division Bench of this Court, while dealing with the fact situation occurring and the crimes registered against the detenu, held thus:

“Thus, four out of six instances which have been noticed by the Commissioner of Police for forming his subjective satisfaction, are stated to be concerning dreadful acts of the detenu which have created panic and insecurity in the minds of general public as well as police personnel. It will be difficult, for us to subscribe to the notion that there was a feeling of insecurity in the minds of police personnel. The police personnel, we feel, have perhaps retreated from the scene more for strategic reasons so that the general public will not view their action differently. It is more with a view to save the image of the police department, the police personnel on all the four occasions have retreated from the scene. If truly, they apprehended danger at the hands of the detenu, they would have easily secured reinforcement of forces including the support from the armed constabulary. We are, therefore, of the opinion that the actions of the detenu complained of in the grounds of detention are the routine or regular crimes indulged in by him.

It is true that the detenu has been indulging in one serious crime or the other at regular intervals. It could also be true, as is reflected in the file,

that the detainee may have been subjected to externment twice for his brazen law breaking activities. But those are all various infractions of law indulged in routinely by the detainee. May be, the Stat is not able to secure conviction as the witnesses cited by them are turning hostile and consequently the detainee must be escaping from the clutches of law. But those factors cannot be bundled and projected as affecting the public order. As was already noticed by us, every infraction of law is liable to be perceived as a disturbance to the law and order and it may lead to disorder. That might itself is not a sufficient ground for invoking the extraordinary power of preventive detention. The constitutional aim and guarantee of liberty of the individual has got to be protected carefully. In our view, four out of six grounds which have been narrated as creating panic and insecurity in the minds of even police personnel have vitiated the subjective satisfaction arrived at by the Commissioner of Police.

We are, therefore, of the opinion that the order of preventive detention cannot be sustained and accordingly, the detainee be set free immediately.”

v) In **Shreya Singhal’s case** (supra 9), the Honourable Supreme Court has dealt with the test that is to be formulated in deciding the question whether a particular act lead to disturbance of the

current life of the community or does it affect merely an individual leaving the tranquility of the society undisturbed, and held thus, in paragraph Nos.33 to 38 in the context of explaining the expression "Public Order":

"33. In Article 19(2) (as it originally stood) this sub-head was conspicuously absent. Because of its absence, challenges made to an order made under Section 7 of the Punjab Maintenance of Public Order Act and to an order made under Section 9 (1) (a) of the Madras Maintenance of Public Order Act were allowed in two early judgments by this Court. Thus, in Romesh Thappar v. State of Madras, [1950] S.C.R. 594, this Court held that an order made under Section 9(1)(a) of the Madras Maintenance of Public Order Act (23 of 1949) was unconstitutional and void in that it could not be justified as a measure connected with security of the State. While dealing with the expression "public order", this Court held that "public order" is an expression which signifies a state of tranquility which prevails amongst the members of a political society as a result of the internal regulations enforced by the Government which they have established.

34. Similarly, in Brij Bhushan. v. State of Delhi, [1950] S.C.R. 605, an order made under Section 7 of the East Punjab Public Safety Act, 1949, was held to be unconstitutional and void for the self-same reason.

35. As an aftermath of these

judgments, the Constitution First Amendment added the words "public order" to [Article 19\(2\)](#).

36. [In Supt., Central Prison v. Ram Manohar Lohia](#), [1960] 2 S.C.R. 821, this Court held that public order is synonymous with public safety and tranquility; it is the absence of disorder involving breaches of local significance in contradistinction to national upheavals, such as revolution, civil strife, war, affecting the security of the State. This definition was further refined in *Ram Manohar Lohia v. State of Bihar.*, [1966] 1 S.C.R. 709, where this Court held:

"It will thus appear that just as 'public order' in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting 'security of State', 'law and order' also comprehends disorders of less gravity than those affecting 'public order'. One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State."

37. [In Arun Ghosh v. State of West Bengal](#), [1970] 3 S.C.R. 288, *Ram Manohar Lohia* case was referred to with approval in the following terms: "In *Ram Manohar Lohia* case this Court pointed out the difference between maintenance of law and order and its disturbance and the

maintenance of public order and its disturbance. Public order was said to embrace more of the community than law and order. Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished, from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquility. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order. Take for instance, a man stabs another. People may be shocked and even disturbed, but the life of the community keeps moving at an even tempo, however much one may dislike the act. Take another case of a town where there is communal tension. A man stabs a member of the other community. This is an act of a very different sort. Its implications are deeper and it affects the even tempo of life and public order is jeopardized because the repercussions of the act embrace large Sections of the community and incite them to make further breaches of the law and order and to subvert the public order. An act by itself is not determinant of its own gravity. In its quality it may not differ from another but in its potentiality it may be very different. Take the case of assault on girls. A guest at a hotel may kiss or make advances to half a dozen chamber maids. *He may annoy them and also the management but he does not cause disturbance of public order.*

He may even have a fracas with the friends of one of the girls but even then it would be a case of breach of law and order only. Take another case of a man who molests women in lonely places. As a result of his activities girls going to colleges and schools are in constant danger and fear. Women going for their ordinary business are afraid of being waylaid and assaulted. The activity of this man in its essential quality is not different from the act of the other man but in its potentiality and in its effect upon the public tranquility there is a vast difference. The act of the man who molests the girls in lonely places causes a disturbance in the even tempo of living which is the first requirement of public order. He disturbs the society and the community. His act makes all the women apprehensive of their honour and he can be said to be causing disturbance of public order and not merely committing individual actions which may be taken note of by the criminal prosecution agencies. It means therefore that the question whether a man has only committed a breach of law and order or has acted in a manner likely to cause a disturbance of the public order is a question of degree and the extent of the reach of the act upon the society. The French distinguish law and order and public order by designating the latter as order publique. The latter expression has been recognised as meaning something more than ordinary maintenance of law and order. Justice Ramaswami in *Pushkar Mukherjee v. State of W.B.* drew a line of demarcation between the serious

and aggravated forms of breaches of public order which affect the community or endanger the public interest at large from minor breaches of peace which do not affect the public at large. He drew an analogy between public and private crimes. The analogy is useful but not to be pushed too far. A large number of acts directed against persons or individuals may total up into a breach of public order. In *Ram Manohar Lohia case* examples were given by Sarkar, and Hidayatullah, JJ. They show how similar acts in different contexts affect differently law and order on the one hand and public order on the other. It is always a question of degree of the harm and its effect upon the community. The question to ask is: Does it lead to disturbance of the current of life of the community so as to amount to a disturbance of the public order or does it affect merely an individual leaving the tranquility of the society undisturbed? This question has to be faced in every case on facts. There is no formula by which one case can be distinguished from another."

38. This decision lays down the test that has to be formulated in all these cases. We have to ask ourselves the question: does a particular act lead to disturbance of the current life of the community or does it merely affect an individual leaving the tranquility of society undisturbed? Going by this test, it is clear that [Section 66-A](#) is intended to punish any person who uses the internet to disseminate any information that falls within the sub-clauses of [Section 66-A](#). It will be

immediately noticed that the recipient of the written word that is sent by the person who is accused of the offence is not of any importance so far as this Section is concerned. (Save and except where under sub-clause (c) the addressee or recipient is deceived or misled about the origin of a particular message.) It is clear, therefore, that the information that is disseminated may be to one individual or several individuals. The Section makes no distinction between mass dissemination and dissemination to one person. Further, the Section does not require that such message should have a clear tendency to disrupt public order. Such message need not have any potential which could disturb the community at large. The nexus between the message and action that may be taken based on the message is conspicuously absent - there is no ingredient in this offence of inciting anybody to do anything which a reasonable man would then say would have the tendency of being an immediate threat to public safety or tranquility. On all these counts, it is clear that the Section has no proximate relationship to public order whatsoever. The example of a guest at a hotel "annoying" girls is telling - this Court has held that mere "annoyance" need not cause disturbance of public order. Under [Section 66-A](#), the offence is complete by sending a message for the purpose of causing annoyance, either "persistently" or otherwise without in any manner impacting public order."

20. Touching the second ground, even assuming that the acts of the detenu are illegal or violative of any provision of the penal laws, the normal recourse of ordinary law would suffice and there is no need to invoke the provisions of the special Act, in **Rekha's case** (supra 10), while observing that the authorities should confine the power of preventive detention to very narrow limits, lest the great right to liberty won by our founding fathers, who were also freedom fighters, after long, arduous and historical struggles, will become nugatory, and as to recourse to normal law rather than invoking the special law provisions, the Hon'ble Supreme Court in paragraph Nos.17 and 23 held thus:

“ 17. [Article 22\(1\)](#) of the Constitution makes it a fundamental right of a person detained to consult and be defended by a lawyer of his choice. But [Article 22\(3\)](#) specifically excludes the applicability of clause (1) of [Article 22](#) to cases of preventive detention. Therefore, we must confine the power of preventive detention to very narrow limits, otherwise the great right to liberty won by our Founding Fathers, who were also freedom fighters, after long, arduous, historical struggles, will become nugatory.

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23. In this connection, criminal cases

are already going on against the detenu under various provisions of the Indian Penal Code as well as under the Drugs and Cosmetics Act, 1940 and if he is found guilty, he will be convicted and given appropriate sentence. In our opinion, the ordinary law of the land was sufficient to deal with this situation, and hence, recourse to the preventive detention law was illegal.”

21. Even the other two grounds referred to above relate to subjective satisfaction and passing an order of detention by the authority and thus, all the points raised by the petitioner in one way or the other would touch the subjective satisfaction reached by the detaining authority in passing the orders of detention.

22. Learned Government Pleader has placed reliance upon the constitutional Bench judgment of the Honourable Supreme Court in **Haradhan Saha’s case** (supra 2), **D.M. Nagaraja v. Government of Karnataka and others**^[15] and **G. Reddeiah v. Government of Andhra Pradesh and another**^[16]. It would be suffice if we extract the various principles laid down by the Constitutional Bench of the Honourable Supreme Court in **Haradhan Saha’s case** (supra 2), which were extracted in **D.M. Nagaraja’s case** (supra

15) thus:

“9. The essential concept of preventive detention is that the detention of a person is not to punish him for something he has done but to prevent him from doing it. Even, as early as in 1975, the Constitution Bench of this Court considered the procedures to be followed in view of Articles 19 and 21 of the Constitution. In Haradhan Saha vs. State of West Bengal & Ors. (1975) 3 SCC 198, the Constitution Bench of this Court, on going through the order of preventive detention under Maintenance of Internal Security Act, 1971 laid down various principles which are as follows:-

".....First; merely because a detenu is liable to be tried in a criminal court for the commission of a criminal offence or to be proceeded against for preventing him from committing offences dealt with in Chapter VIII of the Code of Criminal Procedure would not by itself debar the Government from taking action for his detention under the Act.

Second; the fact that the Police arrests a person and later on enlarges him on bail and initiates steps to prosecute him under the Code of Criminal Procedure and even lodges a first information report may be no bar against the District Magistrate issuing an order under the preventive detention.

Third; where the concerned person is actually in jail custody at the time

when an order of detention is passed against him and is not likely to be released for a fair length of time, it may be possible to contend that there could be no satisfaction on the part of the detaining authority as to the likelihood of such a person indulging in activities which would jeopardize the security of the State or the public order.

Fourth; the mere circumstance that a detention order is passed during the pendency of the prosecution will not violate (sic) the order.

Fifth; the order of detention is a precautionary measure. It is based on a reasonable prognosis of the future behaviour of a person based on his past conduct in the light of the surrounding circumstances."

23. In **G. Reddeiah's case (supra 16)**, it was held that if the detaining authority subjectively satisfied about the offences levelled against the detenu, habituality in continuing the same and difficult to control him under the normal circumstances, the detaining authority is free to pass an appropriate order under Section 3 of the Act by fulfilling the conditions stated therein.

24. In the light of the settled legal position aforementioned, when examined the alleged acts against the detenu, we find from

the grounds of detention that he is involved in nine crimes, which

are:

“1. Cr.No.162/2008, under Sections 420, 468, 471 and 473 IPC of CCS, DD, Hyderabad.

2. Cr.No.165/2009, under Sections 468 and 420 IPC.

3. Cr.No.917/2010, under Section 420 IPC.

4. Cr.No.465/2015, under Section 420 IPC.

5. Cr.No.461/2015, under Sections 420, 468 and 471 IPC of SR Nagar Police Station.

6. Cr.No.120/2011, under Sections 468, 474, 420 and 120 (B) IPC of Begum Bazar Police Station.

7. Cr.No.1094/2014, under Sections 420, 468 and 471 IPC of KPHB Colony Police Station.

8. Cr.No.211/2015, under Sections 468, 471, 420 and 473 IPC of Langer House Police Station.

9. Cr.No.467/2015, under Sections 420, 468, 471 and 473 IPC of Panjagutta Police Station.”

25. All the crimes involve the offences punishable under Sections 468, 420, 471 and 473 IPC relating to fabrication of a document, making

use of a fabricated document and cheating the party by making use of the fabricated documents.

26. The fact situation, which details have been narrated in the above, would show that the detenu has floated educational and research centers unauthorisedly and started issuing Degree Certificates, not only the Bachelors Degree in Arts and Science, but also on technical side such as showing completion of B.Tech and M.Tech Courses, B.B.A., and M.B.A., to enable the persons to secure some sort of occupation, and the list of properties seized from the possession of the detenu shows that he was issuing Certificates in B.A., M.B.A., B.Sc., B.B.A., B.Tech and M.Tech and the papers relating to such documents were found. Nothing else is required to infer that the detenu has been resorting to such acts, which will have serious consequences on the careers of the students, who obtained them, with legal consequences such as initiation of criminal proceedings against them as they were subjected to make use of fake certificates issued by the detenu. The defence got put forth by the detenu that he is engaged in imparting informal education in all branches of study to several people, who are dropouts from the regular course of education and

who could not complete their studies due to lack of resources, employment and various other reasons, that the institution does not seek any recognition from the Government or any affiliation from the concerned University and that it has its own curriculum and result oriented examination at the end of each course including issuing certificate of course completed, is nothing but an invention in an attempt to wriggle himself out of consequences that flow under ordinary law and the preventive detention laws. As could be gathered from the nature of offences alleged to have committed by the detenu shown in the grounds of detention, the students, who approached the institutions run by the detenu, having spent huge amounts, received fake educational certificates in ignorance of the fact that the institutions run by the detenu were not recognized by the Government. Later, when they realized that the educational certificates received by them were fake certificates, became panic and even got scared to join private educational institutions under fear of cheating and loss of their hard-earned amounts, besides their careers getting spoiled cannot be ruled out. Therefore, it cannot be said that they are not prejudicial to the maintenance of the public order as the said activities have got impact on the

society as such not only in the area of operation, but with further consequences, which we feel unnecessary to elaborate. Thus, when, kept in view, the decision of the Hon'ble Supreme Court in **Haradhan Saha's case** (supra 2), certainly, we have no hesitation to reach the conclusion that the orders of detention passed by the respondents do not suffer from vice or illegality to invalidate them and thus, we find no merit in the grounds agitated by the petitioner and the submissions made by the learned counsel thereon to set aside the orders of detention.

27. Hence, we dismiss the Writ Petition. There shall be no order as to costs.

28. As a sequel thereto, other Miscellaneous Applications, if any, pending shall stand dismissed.

G.

CHANDRAIAH, J

**A. SHANKAR
NARAYANA, J**

April 29, 2016.

PV/MD

[\[1\]](#) AIR 1970 SC 1228

[\[2\]](#) (1975) 3 SCC 198

[\[3\]](#) 2012 (4) SCC 699

- [\[4\]](#) AIR 1966 SC 740
- [\[5\]](#) (2008) 9 SCC 89
- [\[6\]](#) 1989 Supp (1) SCC 322
- [\[7\]](#) (W.P. No.6510 of 2015 and batch, dated 29.09.2015)
- [\[8\]](#) W.P. No.16943 of 2015, dated 26.10.2015
- [\[9\]](#) (2015) 5 SCC 1
- [\[10\]](#) (2011) 5 SCC 244
- [\[11\]](#) (2012) 2 SCC 386
- [\[12\]](#) (1975) 2 SCC 81
- [\[13\]](#) (1974) 1 SCC 645
- [\[14\]](#) AIR 1984 SC 1334
- [\[15\]](#) (2011) 10 SCC 215
- [\[16\]](#) (2012) 2 SCC 389