

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

WRIT PETITION No.42514 of 2016

Date: 04.07.2017

Between :

Smt. Bibi Haleema Khatoon

... Petitioner

And

The State of Telangana,
rep. by its Principal Secretary for Home,
Secretariat, Hyderabad and others.

... Respondents

COUNSEL FOR THE PETITIONER: Mr. Gurmeet Singh,
for Mr. Mohd. Muzafferullah Khan

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

THE COURT MADE THE FOLLOWING:

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

This writ petition is filed for issue of Habeas Corpus to set aside the detention order dated 18.08.2016 passed by respondent No.2, approved on 20.09.2016 and confirmed on 20.10.2016 by respondent No.1.

2. At the hearing, among other grounds, learned counsel for the detenu has raised the ground mentioned in para-7(a) of the affidavit viz., in the detention order it is mentioned that the detenu is an accused in Crime No.145 of 2016 for the offences punishable under Sections 420 and 379 of IPC, though the F.I.R. was registered only for the offence punishable under Section 382 of IPC and that this shows that respondent No.2 passed an order of detention on hypothetical basis.

3. In para-8 of the counter affidavit, while admitting this variation, it is, however, sought to be explained that mentioning of Sections 420 and 379 of IPC, instead of Section 382 IPC, in the detention order is inadvertent and purely a typographical mistake.

4. We are afraid, we cannot accept this plea of respondent No.2. Preventive detention being an exception to the Fundamental Right to life and liberty under Article 21 of the Constitution of India, the detaining authority must be vigilant and circumspect and the order of detention, which impairs

the liberty of a citizen without following due procedure of law, must not contain any error, whether inadvertent or otherwise. The fact that wrong provisions of law under which the F.I.R. was purportedly registered against the detenu have been mentioned in the detention order shows that respondent No.2 did not make proper application of mind to the facts of the case while arriving at his subjective satisfaction on the necessity to detain the detenu. The law is well settled that where one of the grounds of detention suffers from illegality, the whole detention order will stand vitiated.

5. In the above view of the matter, the impugned detention order dated 18.08.2016 passed by respondent No.2 is not sustainable and the same is accordingly quashed.

6. The writ petition is accordingly allowed. As a sequel to the disposal of the writ petition, WPMP.No.52424 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

M.S.K. JAISWAL, J

04.07.2017.
Msr

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