

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

AND

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

WRIT PETITION No.24909 of 2016

04.01.2017

Between:

A.Sayamma

..Petitioner

And

The State of Telangana,
represented by its Chief Secretary,
Secretariat Buildings,
Hyderabad and others

..Respondents

Counsel for the petitioner: Mr.D.Purna Chandra Reddy

Counsel for the respondents: Government Pleader 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* for release of Mr.A.Chinna Reddy, S/o late Chinna Rajanna - the husband of the petitioner (hereinafter referred to as 'the detenu') after declaring the detention proceedings, dated 18.03.2016, issued by respondent No.2 as confirmed by respondent No.1, *vide* G.O.Rt.No.1284, General Administration (Law & Order) Department, dated 06.06.2016, as illegal.

2. One of the grounds on which the impugned detention orders have been questioned is that there is inordinate delay in disposal of the detenu's representation by respondent No.1.

3. The learned Government Pleader for Home (TS), on instructions, has submitted that the representation of the detenu made on 12.07.2016 was received by respondent No.1 on 16.07.2016 and that the same was rejected on 09.08.2016.

4. In *Rajamma vs. State of T.N. and another*¹, while interpreting clause (5) of article 22 of the Constitution of India, under which an obligation is cast on the authority making the detention order to afford the detenu the earliest opportunity of making a representation against the detention order, the Supreme Court held as under:

"It is a constitutional obligation of the Government to consider the representation forwarded by the detenu without any delay. Though no period is prescribed by Article 22 of the Constitution for the decision to be taken on the representation, the words "as soon as may be" in clause (5) of Article 22 convey the message that the representation should be considered and disposed of at the earliest. But that does not mean that the authority is pre-empted from explaining any delay which would

¹ (1999) 1 SCC 417

have occasioned in the disposal of the representation. The court can certainly consider whether the delay was occasioned due to permissible reasons or unavoidable causes. This position has been well delineated by a Constitution Bench of this Court in K.M.Abdulla Kunhi Vs. Union of India². The following observations of the Bench can profitably be extracted here:

It is a constitutional mandate commanding the authority concerned to whom the detenu submits his representation to consider the representation and dispose of the same as expeditiously as possible. The words 'as soon as may be' occurring in clause (5) of Article 22 reflects the concern of the Framers that the representation should be expeditiously considered and disposed of with a sense of urgency without an avoidable delay. However, there can be no hard and fast rule in this regard. It depends upon the facts and circumstances of each case. There is no period prescribed either under the Constitution or under the detention law concerned, within which the representation should be dealt with. The requirement, however, is that there should not be supine indifference, slackness or callous attitude in considering the representation. Any unexplained delay in the disposal of representation would be a breach of the constitutional imperative and it would render the continued detention impermissible and illegal."

4. From the admitted facts of the present case, respondent No.1 has taken three weeks time for disposing the detenu's representation. No explanation justifying this delay has been offered on behalf of respondent No.1.

5. Following the ratio in Rajammal (supra), the impugned detention orders, dated 18.03.2016 and 06.06.2016 passed by respondent Nos.2 and 1 respectively, are quashed on the sole ground of unexplained delay in disposing of the detenu's representation. The writ petition is, accordingly, allowed and the detenu – A.Chinna Reddy, S/o late Chinna

² (1991) 1 SCC 476

Rajanna is directed to be released forthwith from the detention, if he is not required in connection with any other criminal case(s).

6. As a sequel to allowing the writ petition, W.P.M.P.No.52292 of 2016 filed by the petitioner for raising additional grounds shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

M.S.K.JAI SWAL, J

04th January, 2017
GHN

