

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE G. SHYAM PRASAD**

WRIT PETITION No.44300 of 2016

ORDER: (ORAL)

(per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present Writ Petition, the petitioner has challenged the detention order dated 03.09.2016, whereby the petitioner was declared 'Goonda' and accordingly detained in judicial custody since then.

2. Learned counsel appearing for the petitioner-detenu submits that in the said detention order and the grounds of detention, the detaining authority has referred 20 crimes registered against the detenu, however, relied upon 4 crimes viz., (1) Crime No.111/2016 for the offences punishable under Sections 353, 509, 506 IPC, registered at P.S., Mellacheruvu; (2) Crime No.129/2016 for the offences punishable under Sections 147, 148, 452, 307, 427, 324, 384 r/w. 149 IPC, registered at P.S., Mellacheruvu; (3) Crime No.125/2016 for the offences punishable under Sections 143, 447, 427, 506 IPC, registered at P.S., Mellacheruvu; and (4) Crime No.176/2016 for the offences punishable under Sections 332, 506 IPC and Section 3 of PDPP Act, 1984 registered at P.S., Mellacheruvu. Thus, all the cases registered are of different provisions of law, however, relied upon the other referred cases also. Therefore, the said detention order passed by the

detaining authority is without application of mind. The learned counsel would further submit that if the detaining authority relied upon only 4 cases referred above, the documents of such cases have not been supplied to the detenu to enable him to make an effective representation under Article 22(5) of the Constitution of India.

3. On the other hand, the learned Government Pleader appearing for the respondents - State submits that it is not in dispute that the detaining authority, while passing the detention order dated 03.09.2016, relied upon only the above 4 cases, however, not relied upon any other cases registered against the detenu for the offence punishable under Section 302 IPC. He further submits that inadvertently, the offence of murder is mentioned in the relied upon cases.

4. We note that in the grounds of detention, there are about 18 cases referred against the detenu and among the said 18 cases, the offences committed by the detenu in the above 4 cases, were considered as the grounds of detention. We further note that, in the detention order, it is recorded that all the above offences of murder, attempt to murder, criminal trespass, criminal intimidation, criminal conspiracy and heinous acts were repeatedly committed by the detenu by creating constant fear and panic among the public and caused a feeling of insecurity to their lives and properties.

Large sections of people are adversely affected by his unlawful acts.

5. Keeping in view the above 4 cases, we are of the considered opinion that the detaining authority had rightly declared the detenu as per clause (g) of Section 2 of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986.

6. However, in relied upon the above 4 cases, in none of the cases, registered against the detenu is of the offence punishable under Section 302 IPC. However, the detaining authority has wrongly relied upon the offence of murder mentioned in the detention order.

7. It is an admitted fact that the documents in the above referred 4 cases were not supplied to the detenu while passing the detention order. However, in the detention order, the detaining authority has relied upon the offences committed by the detenu as referred above, including the offence punishable under Section 302 IPC.

8. We also note that in the grounds of detention, the offence of murder is mentioned at one place and the offence of criminal trespass is mentioned at two places. It seems, while passing the detention order, the detaining authority has not

applied its mind in proper perspective. Therefore, we hereby quash the further detention of the detenu.

9. Accordingly, this writ petition is allowed. The 3rd respondent – Superintendent, Central Prison, Warangal, Warangal District, is directed to release the detenu – Lakavath Rama Rao, forthwith, if not required in any other cases. No order as to costs.

10. As a sequel, miscellaneous petitions pending, if any, shall stand closed.



JUSTICE SURESH KUMAR KAIT

JUSTICE G. SHYAM PRASAD

27.04.2017.
Msr

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