

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE U.DURGA PRASAD RAO**

WRIT PETITION No.15947 of 2017

ORDER : (Oral)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, petitioner has challenged the detention order dated 30.01.2017, passed by the 2nd respondent vide Proceedings No.C1/282/2017, whereby, the detenu is detained in the prison since then.

2. Counsel appearing on behalf of petitioner has argued that it is mentioned in the detention order that initially, proceedings were initiated against the detenu vide Crime No.315 of 2015 under Section 109 Cr.P.C., and thereafter, the detention order, dated 30.01.2017 is passed. He submits, if the detenu has violated the conditions prescribed under Section 109 Cr.P.C., there is a set procedure in the Cr.P.C. to take action against the detenu, however, there is no necessity to initiate detention proceedings under the A.P. Prevention of Dangerous Activities of Bootleggers, Decoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (hereinafter referred to as 'the Preventive Detention Act, 1986'). Thus, the respondents have exceeded their powers in passing the impugned order of detention.

3. Learned counsel further submits that the Superintendent, District Jail, Nalgonda had made a request to the Judicial First Class Magistrate, Suryapet to issue necessary orders to transfer the person by name Shaik Junaid @ Kabeer for admission and treatment, to the Institute of Mental Health, Erragadda, Hyderabad. He submits that the detenu is a

psychiatric as is evident from proceedings dated 21.08.2015. Therefore, there was no necessity to pass the detention order, dated 30.01.2017.

4. However, counsel for petitioner failed to establish that if there is violation of the provisions of Section 109 Cr.P.C., the proceedings under Cr.P.C. are to be initiated and there is embargo on initiation of preventive detention proceedings. In addition to above, it is to be noted that the impugned detention order is passed almost two years after issuance of the document dated 21.08.2015. Thus, he also failed to establish that the detenu was not a sane person on the date of passing the detention order.

5. It is not in dispute that proceedings pursuant to Section 109 Cr.P.C. and proceedings under the Preventive Detention Act, 1986, are separate altogether. Therefore, we are of the opinion that there is no embargo on initiation of proceedings under the Preventive Detention Act, 1986 even if the proceedings under Section 109 Cr.P.C. are pending before the Executive Magistrate.

6. In view of above, we find no ground to interfere with the impugned detention order dated 30.01.2017, issued by the 2nd respondent in Proceedings No.C1/282/2017.

7. Finding no merit in the instant writ petition, the same is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

SURESH KUMAR KAIT, J

29th November, 2017

U.DURGA PRASAD RAO, J

ajr