

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

WRIT PETITION No.45991 of 2016

DATE: 05.07.2017

Between:

M. Shaktivelu

....Petitioner

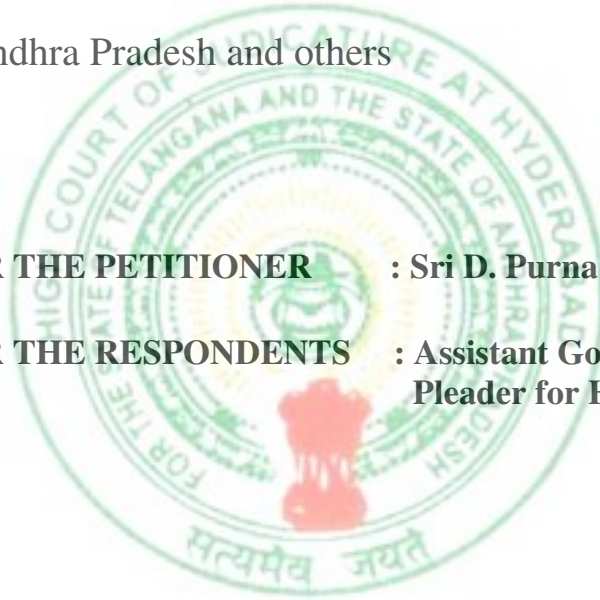
and

The State of Andhra Pradesh and others

....Respondents

COUNSEL FOR THE PETITIONER : Sri D. Purna Chandra Reddy

**COUNSEL FOR THE RESPONDENTS : Assistant Government
Pleader for Home (AP)**



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AND
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WRIT PETITION No.45991 of 2016

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

This writ petition is filed for issuance of Habeas Corpus directing respondent No.4 to produce Veeranan Ambalam Rajamohan, Son of Veeranan Ambalam, (for short 'the detenu') before the Court after declaring proceedings No. REV-CSECOPDL(PRC)/1/2016-D.TH(C7)-COLL-CTR of respondent No.2 as approved by G.O.Rt.No.2238, General Administration (Law & Order) Department, Dated 01.11.2016, of respondent No.1 as illegal.

A perusal of the impugned detention order passed by respondent No.2 shows that though it is dated 22.10.2016, respondent No.2 affixed his seal and signature purportedly on 22.03.2016 which is an obvious mistake for 22.10.2016. This shows complete non-application of mind on the part of respondent No.2 and his Office.

Be that it may, in the impugned detention order, respondent No.2 *inter alia* stated as under:

“If he is released on bail, he will go for underground and continue his illegal activities.”

Learned counsel for the petitioner submitted that out of 9 criminal cases, which are referred to in the grounds of detention, the petitioner was granted bail in one case and could not be released in the remaining cases as bails were not obtained by him. He placed reliance on order dated 14.06.2017 in Writ Petition No.38728 of 2016 (**K. Nandini v. the State of Andhra Pradesh represented by its Chief Secretary**) whereby this Court has quashed the detention order which contained an identical observation as reproduced hereinbefore. In the said order, this Court while placing reliance on the judgment of the Supreme Court in **N. Meera Rani v. Government of Tamil Nadu**¹ observed that as respondent No.2 has not recorded his satisfaction that the detenu is likely to be released on bail, the impugned orders of detention and its confirmation cannot be sustained in law. The relevant paragraph in **N. Meera Rani** (supra) is reproduced below:

“Applying the above settled principle to the facts of the present case, we have no doubt that the detention order, in the present case, must be quashed for this reason alone. The detention order read with its annexure indicates the detaining authority’s awareness of the fact of detenu’s jail custody at the time of the making of the detention order. However, there is no indication therein that the detaining authority considered it likely that the detenu could be released on bail. In fact, the contents of the order, particularly, the above quoted para 18 show the satisfaction of the detaining authority that there was ample material to prove the detenu’s complicity in the bank dacoity including sharing of the booty in spite of absence of his name in the FIR as one of the dacoits. On these facts, the order of detention passed in the present case on September 7, 1988 and its confirmation by the State Government on

¹ (1989) 4 SCC 418

October 25, 1988 is clearly invalid since the same was made when the detenu was already in jail custody for the offence of bank dacoity with no prospect of his release. It does not satisfy the test indicated by the Constitution Bench in **Rameshwar Shaw v. District Magistrate, Burdwan (AIR 1964 SC 334)**. We hold the detention order to be invalid for this reason alone and express no opinion on merits about the grounds of detention.”

Applying the ratio laid down in **N. Meera Rani** (supra), as the ground raised in this writ petition is identical to the ground raised in **K. Nandini** (supra) as accepted by this Court, the impugned detention order as confirmed in G.O.Rt.No.2238, dated 01.11.2016 cannot be sustained and the same are accordingly set aside.

The writ petition is accordingly allowed.

5th JULY, 2017.

C.V. NAGARJUNA REDDY, J

M.S.K. JAISWAL, J

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