

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.1272 of 2018

Date: 30.01.2018

Between :

Shaik Habibulla

... Petitioner

And

The State of Andhra Pradesh, rep. by its
Principal Secretary, Home Department,
Secretariat, Velagapudi, Amaravathi and others.

... Respondents

COUNSEL FOR PETITIONER : Smt. A. Varalaxmi

COUNSEL FOR RESPONDENTS : A.G.P. for Home (A.P.)

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 directing the respondent police to produce Mr. Shaik Vasim Akram, aged 26 years, (for short "the alleged detenu") before this Court and set him at liberty.

The petitioner, who is the father of the alleged detenu, averred in his affidavit filed in support of the writ petition that the alleged detenu, who is his elder son, is working as a Driver, that on 05.01.2018, respondent No.3 along with Police Constables came to his house at about 4.00 a.m., and forcibly took him, his wife and his younger son to the Police Station and indiscriminately beat them to disclose the whereabouts of the alleged detenu and upon persistent requests, respondent No.3 informed the petitioner that the alleged detenu is required in relation to a kidnap case. He further stated that on 09.01.2018, respondent No.3 again came to the petitioner's house and forcibly took him, his wife and younger son to the Police Station and made them to sit till evening and later let them off by informing that the alleged detenu was apprehended, that on 10.01.2018 he went to the Police Station to ascertain the true facts and requested respondent No.3 to atleast allow him to meet his son, but respondent No.3 neither allowed him to enter the Police Station nor gave any response, that on 11.01.2018 the petitioner gave a

written complaint to respondent No.2 and that the same was of no avail.

In pursuance of the notices issued by this Court, respondent No.3 filed counter affidavit wherein he has denied all the allegations made by the petitioner in the writ petition. He has averred that Crime No.5/2018 of Ongole I Town Police Station, Prakasam District, was registered on 04.01.2018 for the offence under Section 365 IPC against 7 Accused, wherein the alleged detenu is A.2, on the allegation that the accused have kidnapped Gurram Pranav, s/o. Gurram Prasad, aged 11 years, for a ransom, that on 05.01.2018, A.1 was arrested and the kidnapped boy was rescued and on the confession of A.1, he was produced before the II Additional Munsif Magistrate, Ongole, on the same day, that on 12.01.2018 A.3 to A.7 were also arrested and produced before the jurisdictional Magistrate. Respondent No.3 has stated that the alleged detenu is the master mind behind the commission of offence and that he is absconding. Respondent No.3 has firmly denied all the allegations relating to the illegal detention and assault of the petitioner and his family members for disclosing the whereabouts of the alleged detenu and also detaining the alleged detenu in the Police Station.

No reply affidavit is filed controverting the aforementioned averments in the counter affidavit.

Though the petitioner alleges that a complaint was given to respondent No.2 on 11.01.2018, he has not filed any copy thereof along with the writ petition. The allegations made by the petitioner against respondent No.3 regarding the alleged illegal detention of the alleged detenu remained unsubstantiated. This Court in exercise of jurisdiction under Article 226 of the Constitution of India cannot embark upon a roving enquiry on the said allegations. However, if the petitioner strongly believes that respondent No.3 has illegally detained the alleged detenu in the Police Station, he is permitted to submit a representation to respondent No.2. If any such representation is filed, respondent No.2 shall hold necessary enquiry and take appropriate action as per law. If the petitioner is still dissatisfied with the response of respondent No.3, he shall be entitled to avail the common law remedies available to him under law against respondent No.3.

Subject to the liberty given to the petitioner as above, the writ petition is dismissed. No order as to costs.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

30.01.2018.

Msr

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