

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

WRIT PETITION No.2633 of 2018

Date: 30.01.2018

Between :

Venna Venkatesh

... Petitioner

And

The State of Telangana, rep. by its
Principal Secretary, Home Department,
Secretariat Buildings, Hyderabad and others.

... Respondents

COUNSEL FOR PETITIONER : Smt. S. Sravana Sandhya

COUNSEL FOR RESPONDENTS : AGP attached to A.G. (TS)

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 respondents to produce Venna Jashwith (for short "the alleged detenu") before this Court and handover his custody to the petitioner.

The facts borne out by the record disclose that the petitioner's wife met her unnatural death. A case was registered against the petitioner for the offence punishable under Section 302 IPC. While investigation was going on, respondent Nos.4 and 5, who are the brother-in-law and sister, respectively, of the deceased-wife of the petitioner took the alleged detenu to Bapatla from the custody of the parents of the petitioner in Hyderabad. As they declined to handover custody of the child to the petitioner, the latter has made a representation on 24.01.2018 to respondent No.2 with a request to ensure that the custody of his son is handed over to him. The petitioner has also caused a legal notice issued to respondent Nos.4 and 5 calling upon them to handover custody of his son. As the petitioner's efforts to retrieve the custody of his son failed, he has filed the present writ petition.

The learned Assistant Government Pleader for Home (Telangana State) on instructions submitted that as the petitioner is facing accusation of being responsible for the death of his wife and

investigation into the criminal case initiated against him is pending, respondent Nos.4 and 5 have taken the custody of the alleged detenu from the parents of the petitioner and that he is in their safe custody.

The contents of the representation made to respondent No.2 do not disclose that respondent Nos.4 and 5 have forcibly taken away the minor boy (alleged detenu) from the custody of the petitioner's parents. Therefore, prima-facie, the said representation does not disclose commission of any cognizable offence by respondent Nos.4 and 5. On the contrary, from the facts of the case as discussed above, it appears that as the petitioner is suspected of causing the death of his wife, respondent Nos.4 and 5 have taken the custody of the minor child. Respondent Nos.4 and 5, being the maternal aunt and uncle, respectively, of the minor child, it cannot be said that the safety and security of the said child is in jeopardy. At any rate, as the petitioner's representation does not disclose the commission of any cognizable offence, the police are not expected to take any action on such representation. The dispute raised by the petitioner is civil in nature and the appropriate remedy for him is to approach the competent Court of Law seeking custody of his minor son.

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

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

30.01.2018.

Msr



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

WRIT PETITION No.2633 of 2018



30.01.2018

Msr