

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

Writ Petition No.33220 of 2017

DATED:07-02-2018

Between:

Ch. Satyanarayana ... Petitioner

And

The State of Telangana
Rep. by its Principal Secretary
General Administration [Spl.(Law & Order)]
Department
Secretariat
Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. P.L. Rao

COUNSEL FOR THE RESPONDENTS: G.P. for Home (TS)

THE COURT MADE THE FOLLOWING:

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

The detention of one Cholleti Shankara Chary @ Chary (hereinafter referred to as “the detenu”), son of the petitioner, under the provisions of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short, “the Act”), is assailed in this writ petition.

2. A perusal of the record shows that the detenu is accused of commission of eight criminal cases, out of which one case was registered in the year 2016 for the offence under Section 392 of the Indian Penal Code (IPC) and seven cases were registered in 2017 for the offence under Section 393 IPC. The material on record shows that the detenu was arrested on 21.4.2017 in Crime No.124 of 2017 of Keesara Police Station and remanded to judicial custody, and based on his confession seven more criminal cases were registered and in all 7½ tolas of gold ornaments were recovered from the detenu. The detenu's arrest was regularized in all the remaining cases. The bail applications filed by the detenu in Crime Nos.6 and 50 of 2017, of Bommalaramaram and Turkapally Police Stations respectively on 9.5.2017 were dismissed on 11.5.2017.

3. The only ground which has been advanced by Mr. P.L. Rao, learned counsel for the petitioner, is that as the detenu was in judicial custody, respondent No.2 was not justified in passing the detention order.

4. In case of the detenu who was already in judicial custody at the time of passing of the detention order, the law requires that the detaining authority must have the awareness of such detention and he must record his satisfaction that there is a likelihood of the detenu coming out of bail and repeat his activities which may disturb the public order.

5. In the impugned detention order, respondent No.2 *inter alia* stated as under:

“I am aware that you were arrested on 21.4.2017 by the Keesara Police in Cr. No:124/2017 U/s.392 IPC of P.S. Keesara and remanded to judicial custody and lodged in Central Prison, Cherlapalli, Medchal Dist. Subsequently you were shifted to Sub-Jail, Bhongir. You have involved in other (7) cases of chain snatchings of Kushaiguda, Bommalararamam, Valigonda and Thurkapally PSs of Rachakonda Commissionerate. Your arrest in the remaining cases also was regularised through PT warrants. I believe that there is a genuine possibility of your release on bail and further on being released you would further indulge in similar activities which are prejudicial to the maintenance of public order, unless you are prevented by an appropriate order of detention.”

6. In **N. Meera Rani v. Government of Tamil Nadu**¹, the Supreme Court held as under:

“22. We may summarise and reiterate the settled principle. Subsisting custody of the detenu by itself does not invalidate an order of his preventive detention and the decision must depend

¹ (1989) 4 SCC 418

on the facts of the particular case; preventive detention being necessary to prevent the detenu from acting in any manner prejudicial to the security of the State or to the maintenance of public order etc. ordinarily it is not needed when the detenu is already in custody; the detaining authority must show its awareness to the fact of subsisting custody of the detenu and take that factor into account while making the order; but, even so, if the detaining authority is reasonably satisfied on cogent material that there is likelihood of his release and in view of his antecedent activities which are proximate in point of time he must be detained in order to prevent him from indulging in such prejudicial activities, the detention order can be validly made even in anticipation to operate on his release. This appears to us, to be the correct legal position.”

7. It is evident from the impugned order of respondent No.2 that he was very much aware of the fact of the existing custody and also he has placed on record his satisfaction that there is a genuine possibility of the detenu releasing on bail.

8. In the light of the above facts and position in law, we find no merit in this writ petition and the same is accordingly dismissed.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

07-2-2018

bmr