

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

WRIT PETITION No. 30321 of 2015

Date: 27th February, 2018

Between:

Thiruganam Chandra

... Petitioner

And

State of Andhra Pradesh and 7 others

... Respondents

COUNSEL FOR PETITIONER : Mr. Rama Murty P.V.S.A.

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, by directing the respondents to produce Thiraganam Siva Kumar, s/o Thiraganam (for short, 'the alleged detenu'), aged about 30 years, r/o Model Colony, D.K. Pally, Kuppam, Chittoor District, before this Court and set him at liberty.

2. According to the petitioner, the mother of the alleged detenu, in connection with the matrimonial dispute with the latter and his wife, respondent Nos.7 and 8 have detained the alleged detenu in the police station illegally and not been releasing him.

3. Respondent No.7 filed a detailed counter affidavit wherein he has *inter alia* stated as under:

"4. It is submitted that on 26.6.2015, the wife of the alleged detenu namely Jamuna approached me and submitted a petition stating that her marriage with the alleged detenu was performed on 12.12.2014. After the marriage her husband and his family members are harassing for additional dowry and sent away from matrimonial home at Kuppam. She also stated that her husband Siva Kumar came to her house on 26.6.2015 and asked her mother to send his wife along with him. On that her mother advised him, if comes along with his parents, they would send their daughter. Without heeding the said order, the alleged detenu is creating nuisance in the house. She requested the police to intervene in the matter. On that I conducted counseling to both the complainant and her husband (alleged detenu herein) and advised them to live amicably and they both agreed for the

same and left the Police Station on 26.6.2015, which is evident from the statement of the Complainant.

5. I submit that again on 3.7.2015, wife of the alleged detenu once again came to the Police Station and lodged a complaint after the Counselling held by the Police, her husband left Pithapuram under the premise that he will come back with his parents, but did not turn up. As her husband and in-laws are not interest in her and are harassing for additional dowry and necked her out of matrimonial home, she requested to register the crime against them and take necessary action. Basing on the said complaint, a case in Cr.No.98/2015 registered under Sections 498A and 323 IPC r/w Section 34 IPC and Sections 3 and 4 of Dowry Prohibition Act of Pithapuram Town Police Station, E.G. district and the investigation is taken up.

6. I submit that during the course of investigation, I have examined the Complainant and recorded her statement, wherein she stated that after counseling he stayed in her house for one day and thereafter left for Kuppam and thereafter he did not return to Pithapuram. I have also recorded the statements of mother, sister brother and neighbours of the complainant, which are corroborated with the contents of FIR."

4. Respondent No.7 also denied the allegation that they have detained the alleged detenu on 27.06.2015, and that till the ASI reported about the missing of the alleged detenu on 24.08.2015, respondent No.7 was not even aware of the said fact and that since the said date they are making hectic efforts to trace the alleged detenu. He has further stated that as per the judgment of the Supreme Court in

Arnesh Kumar v. State of Bihar and another¹, there is no need for arrest of the alleged detenu in a case registered for the offence under Section 498(A) IPC and that, therefore, there was no occasion for the police to apprehend the alleged detenu either on 27.06.2015 or on any other subsequent dates.

5. Though the counter affidavit was filed as far back as 22.09.2015, no reply has been filed by the petitioner controverting the aforementioned averments.

6. In the light of the stern denial of the allegations in the affidavit filed in support of the Writ Petition the alleged detenu is in the illegal custody of respondent Nos.7 and 8, and in the absence of any prima facie material in support of the allegations of illegal detention, we find no merit in this Writ Petition.

7. The Writ Petition is, accordingly, dismissed.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

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KSM

¹ 2014 (8) SCALE 250

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WRIT PETITION No. 30321 of 2015

(Order of the Division Bench delivered by
Hon'ble Sri Justice C.V. Nagarjuna Reddy)

27th February, 2018

KSM