

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

Crl. R.C. No.845 of 2018

ORDER:

This Crl.R.C. is filed by the petitioner/Accused No.1, under Sections 397 & 401 Cr.P.C., aggrieved by the order dated 22.03.2018 in Crl.M.P.No.675 of 2018 in Crime No.22 of 2018 of Kurnool III Town Police Station, whereunder the learned Judicial Magistrate of First Class, Kurnool, allowed the petition, filed by the prosecution under Section 167 Cr.P.C. and extended the police custody of petitioner/Accused No.1, which was already granted in Crl.M.P.No.642 of 2018 from 20.03.2018 to 23.03.2018 to 5.00 P.M. of 28.03.2018 subject to his production before the Court at 10.30 A.M. on 23.03.2018 along with medical certificate etc.

2) It is alleged that the petitioner committed offences under Sections 120B, 147, 148, 324, 307 r/w Section 149 IPC in Cr.No.22 of 2018 of Kurnool III Town Police Station. On 16.03.2018, A1 surrendered before the learned Judicial First Class Magistrate, Kurnool and he was remanded to judicial custody. The Police have filed Crl.M.P.No.642 of 2018 dated 19.03.2018 for grant of police custody for ten days. The said petition after enquiry was allowed and the Court was pleased to grant police custody of A1 from 20.03.2018 to 23.03.2018. Accordingly, the Police have obtained the custody of A1 for interrogation purpose. Subsequently, the police have filed Crl.M.P.No.675 of 2018 on 21.03.2018 seeking for extension of police custody for a period of ten days on the main ground that A1 did not cooperate with the Investigating Agency. After enquiry,

the Court was pleased to extend the police custody from 23.03.2018 till 05.00 p.m. on 28.03.2018 and the said order is now impugned.

3) Heard Sri P.Nagendra Reddy, learned counsel for petitioner and learned Additional Public Prosecutor for the State (A.P.).

4) The submission of learned counsel for the petitioner is that as per the order of the learned Magistrate, the police having secured the presence of A1 on 20.03.2018 and interrogated him for one day and having come to know that he was not cooperating with them ought to have utilized their skills till 23.03.2018 to ascertain the required information and still if he did not cooperate with them, they ought to have filed application for extension of police custody. Without doing so, learned counsel would argue, they rushed to the Court on the very next day of obtaining the police custody. The learned Magistrate ought not to have extended the custody as there were no *bona fides* on the part of the police to seek extension.

a) Nextly, learned counsel argued that when the learned Magistrate granted custody only for three days against the request for 10 days, the police having apprehended the period of custody granted by the learned Magistrate was not adequate to complete the interrogation, ought to have challenged that order by way of appropriate proceedings. Without doing so, they cannot now seek for extension of police custody and the Court also cannot grant extension. On these grounds, learned counsel prayed to set aside the impugned order in CrI.M.P.No.675 of 2018.

5) In oppugnation, learned Additional Public Prosecutor would submit that as can be seen from the order, though the police have interrogated A1 for one full day, they could not get any useful material, leading to further investigation. The Police thus apprehended that in the coming two days also even if they interrogated him, they may not be able to get useful material from him and therefore, they rushed immediately to the Court seeking extension of the police custody. Learned Additional Public Prosecutor would further submit that due to intransigent attitude of A1 in not cooperating with the Investigating Agency they had to approach the Court seeking extension of custody on the very second day. Hence, their approach cannot be found fault. Nextly, it is argued that when initially custody was granted for three days as against the request for ten days, police might have contemplated to complete the interrogation within the said period with an impression that if they fail to ascertain the required information within three days, thereafter they can move the court for extension by placing the incomplete information before the Court and making a genuine request for extension. Thus, merely because they have not challenged the original order, that cannot be a ground to say that they have no right to seek for extension.

6) In the light of the above submissions, the point for determination is:

“Whether the extension of police custody granted by the learned Magistrate for six days i.e., from 23.03.2018 to 28.03.2018 is sustainable in law and facts?”

7) **POINT**: As can be seen from the impugned order, along with extension petition, the Police have filed the prior history of investigation under the heading of “NERAVICHARANA PANCHANAMA” for perusal of the Court wherefrom it was found that the accused thus far during the interrogation, had given his personal details, educational details, professional details, family background details, his family political background and only a part of the facts of the case. Thereafter, he did not cooperate with the investigation. Having thus submitted a report as to what transpired during interrogation and what were the answers given by A1 during the course of interrogation, the Investigation Officer filed an extension petition seeking for extension of the police custody. This prompted the learned Magistrate to come to a conclusion that A1 had not cooperated with the Investigating Agency to order for extension.

8) Now, coming to the argument of learned counsel for the petitioner, it is true that the extension petition is filed not after the completion of three days period, but on the very second day of three-days police custody. The reason submitted by learned Additional Public Prosecutor is cogent in this regard. As can be seen from the report submitted under the heading “NERAVICHARANA PANCHANAMA” what all A1 answered was relating to the general information, but not the facts relating to the crime. Thus, one can reasonably conclude that he had not cooperated with the Investigating Agency in giving the information that was within his knowledge. Probably, the police might have apprehended

that even if they interrogated him for the coming two days, they may not get useful material from him having seen his attitude thus far. Therefore, without wasting much time they seem to have rushed to the Court seeking extension of the period of the police custody with a fond hope that they may be able to get useful information by intense interrogation. That they rushed to the Court in advance shall by no means be treated as an illegal or unwarranted act. Learned counsel for the petitioner could not show any citation or rule of law denouncing such action of the police as illegal. Therefore, their advanced approach to the Court cannot be found fault with.

9) So far as the next contention of learned counsel for the petitioner is concerned, it is true that as against the request for ten days, the learned Magistrate granted only three days custody. As against the said order, the police have not preferred any revision or appeal. However, the point is merely because they have not carried the matter in appeal or revision, whether they are prohibited from seeking extension. Here also no law or rule is placed before this Court showing that their action is forbidden by law. Therefore, none of the grounds raised merit consideration.

10) However, having regard to the nature of the crime, I am of the considered view that the extension as granted by learned Magistrate can be suitably reduced. In that view, the extension period of police custody granted by the learned Magistrate is reduced from 28.03.2018 to 5.00 p.m. of 26.03.2018. The other conditions mentioned in the impugned order hold good.

11) Accordingly, this Criminal Revision Case is disposed of.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 23.03.2018

Note:

- 1) Issue CC today.
- 2) Registry is directed to send a copy of this order to the concerned Magistrate and Police by fax immediately.

(B/O)
MVA

