

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

W.P.No.10092 of 2018

Date: 05.06.2018

Between:

K.Ramanamma W/o.Ramana,
Aged about 30 years, Occ: Coolie,
R/o.Yellavaram (V), Goligonda (M),
Visakhapatnam district,
Andhra Pradesh State.

...

Petitioner

And

The State of Andhra Pradesh,
Principal Secretary,
Home Department,
Secretariat,
Amaravathi, Guntur district
and two others.

...

Respondents



Counsel for the Petitioner : Mr. Hussain Aamir
for Mr.V.Raghunath

Counsel for the Respondents : A.G.P. attached to
Advocate General (AP)

The Court made the following:

Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed for issue of Habeas Corpus, directing respondents No.2 and 3 to produce Mr.K.Ramana S/o.Konda, R/o.Yellavaram (V), Goligonda (M), Visakhapatnam district (for short 'alleged detenu'), before this Court and set him at liberty forthwith.

2. Respondent No.2 has filed a counter affidavit, wherein he has denied the allegation that the police have taken the alleged detenu under illegal custody on 23.03.2018. It is averred that the enquiries of respondent No.2 revealed that the Unguturu police arrested the alleged detenu on 02.04.2018 in connection with Crime No.73 of 2018, registered for the offences under Section 8 r/w. Section 20 (b) of N.D.P.S. Act, along with accused Nos.2 and 3 and produced before VII Additional Chief Metropolitan Magistrate, Gannavaram on 02.04.2018. That, the alleged detenu has not complained of illegal detention, to the Magistrate who remanded the alleged detenu to judicial custody on the same day.

3. Mr.Hussain Aamir, learned counsel representing Mr.V.Raghunath, counsel for the petitioner submitted that the respondents have come out with a false plea that the alleged detenu was not taken into illegal custody and that it is a fact that he was taken to illegal custody on 23.03.2018 but his arrest was shown only on 02.04.2018.

4. Except the *ipse dixit* of the petitioner, no material is produced to prove the plea that the detenu was taken into custody on 23.03.2018. Ordinarily, this Court in exercise of its jurisdiction under Article 226 of the Constitution of India will not embark upon disputed questions of fact. If the alleged detenu was taken into illegal custody as pleaded by the petitioner, both or either of them shall be free to approach the jurisdictional court for appropriate reliefs, including damages for illegal custody.

5. Subject to this liberty, the writ petition is disposed of as infructuous.



(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad,J)

Date: 05th June, 2018

msb

