

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

W.P.No.10770 of 2018

Date: 05.06.2018

Between:

A.Dharma Raju S/o.A.Yedukondalu,
Aged about 55 years, Occ: Employee,
R/o.Plot No.G-2, Pavan Sai Enclave,
D.No.21-1-15, Vijayawada,
Krishna district, Andhra Pradesh.

...

Petitioner

And

The State of Andhra Pradesh,
Principal Secretary,
Home Department,
Secretariat, Amaravathi,
Guntur district
and six 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 the respondents to produce Mr.Ankalla Prudhviraaj, aged about 25 years, Law Student and Mr.Chandan, Student (for short 'alleged detenu') before this Court and set them at liberty forthwith. The petitioners further prayed to direct respondents No.1 and 2 to constitute an enquiry into the physical and mental torture of the detenu and submit report for appropriate and suitable action.

2. In his counter affidavit, respondent No.3 while denying the allegation that the alleged detenu were taken into illegal custody on 28.03.2018, has averred that the alleged detenu attracted by revolutionary ideologies, wanted to join Maoist party and kill the Vice Chancellor of Hyderabad Central University. That, on coming to know about the said plan, a case was registered and alleged detenu were arraigned as A-2 and A-3 in Crime No.30 of 2018 registered for offences under Section 120(b) IPC, 8 (i) (ii) of the A.P. Public Security Act and Sections 5 and 6 of Explosive Substance Act, Section 25 of Indian Arms Act and Sections 10, 13 and 20 of Unlawful Activities Prevention Act in Yetapaka Police Station, they were arrested on 30.03.2018 at 5 p.m. and their confessional statements were recorded. The counter affidavit further averred that the alleged detenu were produced before the III Additional Judicial

First Class Magistrate, Rajamahendravaram incharge Judicial First Class Magistrate, Rampachodavaram, East Godavari district on 31.03.2018 and that on being questioned, the alleged detenu have not complained of ill treatment in the hands of the police. That, the Magistrate passed a judicial order, remanding them to judicial custody and that in pursuance of the said order, the alleged detenu have been lodged at Central Prison, Rajamahendravaram on the same day.

3. Mr.Hussain Aamir, learned counsel representing Mr.V.Raghunath, counsel for the petitioner, submitted that the police have taken illegal custody of the alleged detenu on 28.03.2018 itself and subjected them to physical torture, before they were formally arrested on 31.03.2018.

4. In support of their plea that the alleged detenu were not subjected to any torture, the respondents have filed a copy of remand order dated 31.03.2018 passed by III Additional Judicial First Class Magistrate, Rajamahendravaram incharge Judicial First Class Magistrate, Rampachodavaram, East Godavari district, wherein she has stated that the accused have not complained of any ill-treatment in the hands of the police. The said order in our opinion, *prima facie*, belies the plea of the petitioner that the alleged detenu were subjected to physical torture by the police. At any rate, in the absence of any evidence of the alleged detenu having been taken into custody on 28.03.2018 and kept in illegal custody till they were shown to have

been arrested on 31.03.2018 and that of any torture, it is not possible for this Court to render any conclusive finding on this aspect. If the alleged detenu were taken into illegal custody and tortured, as pleaded by the petitioner, they shall be free to approach the jurisdictional courts 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



