

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

WP.No.14699 of 2018

Date:06.06.2018

Between.

Mohammed Shaik Haseena,
W/o Md. Shaik Ameer

.....Petitioner

And.

The Station House Officer,
Vizianagaram-I Town Police
Station, Vizianagaram District
and three others.

.....Respondents

Counsel for the petitioner: Mr. Kallakuri Sreenivasa Rao

For Mr. Nandigam Krishna Rao

Counsel for the respondents: AGP for Home (AP)

representing Advocate General (AP)

The Court made the following:

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

This Writ Petition is filed for issue of Writ of *Habeas Corpus* directing the respondents to produce one Mohammed Toufeeque Ali, the son-in-law of the petitioner, (hereinafter referred to as 'the alleged detenu') before this Court and set him at liberty.

It is the case of the petitioner that in connection with a case registered for the offence *inter alia* under Section-498-A IPC, the alleged detenu was released on bail on 17.4.2018; that at the time of his physical release, on the same day, at about 7.15 pm., he was arrested by the Police of respondent No.1- Police Station and was taken in a car bearing registration No.AP-35/AF-5883; and that from the said date onwards, the whereabouts of the alleged detenu are not known.

Respondent No.1 filed a counter-affidavit, wherein he has averred that the alleged detenu is accused No.1 in Crime No.1 of 2018 on the file of I Town Police Station, Vizianagaram, registered for the offences under Sections-420 and 506 read with 34 IPC; and that the son of the alleged detenu, who is accused No.2 in the said Crime, was arrested on 17.02.2018 and on being produced before the Additional Judicial First Class Magistrate, Vizianagaram, the said accused was remanded to judicial custody on 17.02.2018. It is further stated that the alleged detenu was produced before the Additional Judicial First

Class Magistrate, Vizianagaram, in pursuance of execution of the non-bailable warrant in connection with Crime No.158 of 2018 and was lodged in Sub-Jail, Vizianagaram; that respondent No.1-Police have filed a PT warrant application in Crime No.1 of 2018 before the said Court on 16.02.2018; that in pursuance of the order passed by the learned Magistrate, the alleged detenu was produced before the Court on 22.02.2018; that on such production, the learned Magistrate has passed a detailed order remanding the alleged detenu to judicial custody; and that pursuant thereto, the alleged detenu was lodged in Central Prison, Visakhapatnam. It is further averred that respondent No.1-Police have filed a petition before the learned Magistrate seeking police custody of the alleged detenu and that after interrogation of the alleged detenu, he was lodged in Central prison, Visakhapatnam on 08.3.2018 and was enlarged on bail on 17.4.2018.

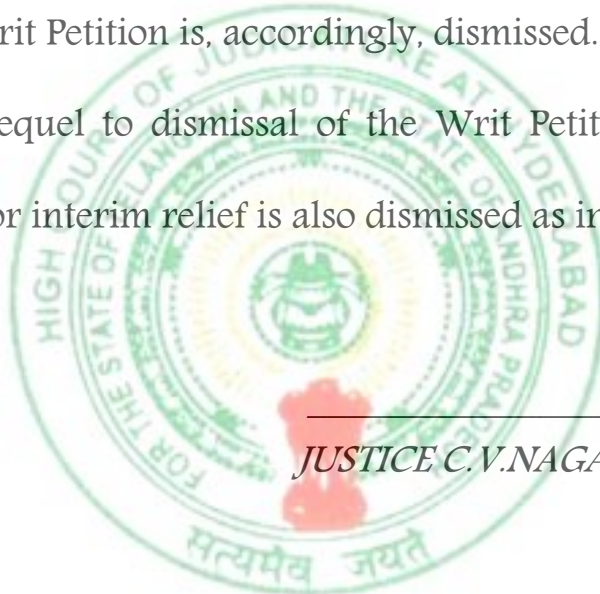
As regards the allegation that on 17.4.2018, the alleged detenu was taken away in a car by the police personnel of respondent No.1-Police Station, the deponent of the counter-affidavit denied the said allegation and stated that either on 17.4.2018 or on any other subsequent date, the alleged detenu was not taken into custody as, he was not required in connection with Crime No.1 of 2018 or any other case pending on the file of I Town Police Station, Vizianagaram.

Though the counter-affidavit was filed as far back as 02.5.2018, no reply-affidavit is filed by the petitioner.

In the light of the stand taken by the respondents in the counter-affidavit that the alleged detenu is not in their custody and in the absence of any *prima facie* material produced by the petitioner in support of his allegation that the alleged detenu is in the custody of respondent No.1, the relief claimed in this Writ Petition cannot be granted.

The Writ Petition is, accordingly, dismissed.

As a sequel to dismissal of the Writ Petition, IA.No.1 of 2018 filed for interim relief is also dismissed as infructuous.



JUSTICE C.V.NAGARJUNA REDDY

JUSTICE GUDISEVA SHYAM PRASAD

06th June, 2018

DR