

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

Writ Petition No.15593 of 2018

DATED:27-06-2018

Between:

G. Alivelu ... Petitioner

And

The State of Andhra Pradesh
Represented by the Principal Secretary
Home Department, Secretariat
Amaravathi, Guntur District
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mrs. V. Meenakshi

COUNSEL FOR RESPONDENT NOS.1, 3 and 4:
Assistant Government Pleader, attached
to the 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 the petitioner's husband, by name, G.R.S.S.V. Subba Rao ("the alleged detenu") before this Court and set him at liberty.

The petitioner averred that the alleged detenu suddenly went missing on 03.02.2015 from his office and that on her complaint F.I.R. No.7 of 2015 was registered by respondent No.4 on 04.02.2015. The grievance of the petitioner is that since then no efforts have been made by the Police to trace the whereabouts of the alleged detenu.

In the counter affidavit filed by respondent No.4 it is *inter alia* stated that on receiving a phone call from the son of the alleged detenu at 11.00 a.m. on 03.02.2015 over the latter's missing, Crime No.7 of 2015 was registered under the head "Man Missing" on 04.02.2015. That after recording the detailed statement of the complainant, the information was sent to all the bordering stations by phone and informed them about the incident. That the matter was also informed to the Head Quarters through the Very High Frequency (VHF) set with a request to them to inform the Police Station, Nizampatnam, if any unclaimed male dead body came to their notice and that a

lookout notice was sent through APMS to all the Police Stations in the State with a copy to the District Crime Record Bureau (DCRB) for information. It is further averred that the descriptive particulars and photograph of the missing man were given to the Media to publish the same in all daily newspapers and to exhibit the same in electronic media and that the investigation officer visited the Nizampatnam Harbour, secured the presence of L.Ws.2 to 6, examined them and recorded their statements. The counter affidavit further averred that on 05.02.2015, the in-charge Fisheries Development Officer, Nizampatnam, and Supervisor, HSD Oil Bunk, AFCOF, Nizampatnam stated before the Police that the Andhra Pradesh Fishermen Cooperative Society Federation Limited, Hyderabad, is running the HSD Oil Bunk at Nizampatnam Fishing Harbour, Nizampatnam, for supply of diesel to the sea bound fishing craft, and that the HSD Oil Bunk is being maintained by the Sales Officer under the supervision of Supervisor/Fisheries Development Officer, Nizampatnam. That the alleged detenu used to look after the HSD oil supplied to the boat owners and the remittances of sale proceeds to the concerned sales account in the State Bank of India, Nizampatnam. That on 02.02.2015 some of the boat owners of Nizampatnam have informed that

the alleged detenu has not supplied the HSD oil to the fishing boats from 31.01.2015 onwards, that he is also not available in the office and that when they tried to contact him on both his mobile phone numbers, he has not received the calls and spoken to them. That based on the said complaint Crime No.09 of 2015 was registered for the offences under Sections 409 and 420 IPC of Nizampatnam Police Station and investigation was taken up. That as the whereabouts of the alleged detenu are not known, investigation could not be completed.

On the directions issued by this Court, respondent No.4 has filed an additional affidavit wherein he has *inter alia* stated as under:

“6. It is submitted that during the course of investigation, Police have made several efforts to trace the Missing Man at Ponnur, Chandole, Karlapalem of Guntur District and nearby villages and also issued Pamphlet containing the photo and descriptive particulars of the Missing Man and Reward was also announced to the informants. The Pamphlets were displayed at all public places and also pasted to buses. The Police concerned were also contacted and verified the un-identified dead bodies, but in vain. A team consisting of one Head Constable and P.C. was formed to trace the Missing Man and the said Team is making sincere efforts to trace the Missing Man. The investigation is still continuing for tracing the Missing Man.”

From the averments contained in the counter affidavit and the additional counter affidavit and the material filed in

support thereof, we are convinced that in spite of the best efforts made by the Police, they could not ascertain the whereabouts of the alleged detenu. The alleged detenu is not in the custody of the Police, even as per the case of the petitioner. In the above facts and circumstances of the case, it is not possible to direct the Police to produce the detenu.

The writ petition is accordingly dismissed, however, with the direction to respondent No.4 to continue his efforts to trace the alleged detenu and inform the petitioner as and when they succeed in tracing him.



C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

27-6-2018

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