

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

+ WRIT PETITION No.18144 of 2018

%17-07-2018

#Kavati Sagar
... Petitioner

And

\$The State of Andhra Pradesh,
rep. by the Director General of Police,
Andhra Pradesh and others.
... Respondents

! Counsel for the Petitioner : Sri Kona Vijay Kumar

^Counsel for the respondents : Sri C.S. Suryaprakasha Rao
Spl. Government Pleader (A.P.)

<GIST :

>HEAD NOTE :

? CITATIONS : (1) (1997) 1 SCC 416

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Date: 17.07.2018

Between :

Kavati Sagar

... Petitioner

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The State of Andhra Pradesh,
rep. by the Director General of Police,
Andhra Pradesh and others.

... Respondents

COUNSEL FOR PETITIONER : Sri Kona Vijay Kumar

COUNSEL FOR RESPONDENTS : Sri C.S. Suryaprakasha Rao
Spl. Government Pleader (A.P.)

THE COURT MADE THE FOLLOWING:

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

This writ petition is filed for issue of Habeas Corpus directing the respondents to produce Smt. Kavati Alimelu, w/o. late Adinarayana (for brevity 'the alleged detenu'), R/o. H.No.7/72, Ward No.8, Near Epurupalem By-Pass, Adinarayanapuram, Eepurupalem Mandal, Prakasam District, Andhra Pradesh State.

When this Court went through the pleadings and the material on record, it has found to its consternation that the alleged detenu was produced before the Press, which has published photograph of a woman standing behind the police, who were seen sitting on the front row. Our conscience having been deeply disturbed looking at the photograph, we passed the following order on 19.06.2018:

"Petitioner, who is the son of the alleged *detenue* - Kavati Alivelu, has filed an affidavit wherein he has *inter alia* stated that one Madhava Reddy (wrongly described as Deputy Inspector of Police in the affidavit instead of Deputy Superintendent of Police), who is working under respondent Nos.1, 3 and 4, conducted a press meeting at Srisailam and produced the alleged *detenue*, paraded her before the media, made reckless allegations and allowed the press to take group photos.

The learned Counsel for the petitioner has filed two photographs published in the newspaper showing a woman standing behind the Police hanging her head. Our conscience is deeply disturbed on looking at these photographs as we *prima facie* feel that the Police have no right to violate the personal dignity of any citizen, be it an accused or a convict. The right to privacy having

been recognized as a fundamental right, we are of the *prima facie* opinion that the Police have no authority whatsoever to parade the suspects in public and allow the press to publish their photographs and electronic channels to telecast such an event.

The Director General of Police, Andhra Pradesh, is directed to file his personal affidavit as to under what authority his subordinates have been parading the suspects or accused in public.”

On 03.07.2018, the Director General of Police (A.P.) has filed his affidavit along with a Circular dated 28.06.2018 purporting to take remedial steps. Not being satisfied with the same, this Court has passed the following order on 03.07.2018.

“The Director General of Police (DGP) has filed an affidavit wherein he has termed presentation of the arrested persons before the media as “a matter of practice” and “not uncommon for police officials to get photographed with the display of recovered property”. The DGP, nevertheless, referred to the Circular dated 28.06.2018 directing all Superintendents of Police, Commissioners of Police, Range D.Is.G/I.G. etc., to strictly ensure that local police officials desist from the practice of showing the accused before media and that in any major crimes, if the accused are presented before the media, then their faces shall be covered by putting a mask in order to avoid their identification.

This Circular dated 28.06.2018 enclosed with the counter affidavit refers to a three-Judge Bench of the Supreme Court objecting to the investigating agencies showing the accused persons before the media as it is an affront to the person and dignity of the accused who

is presumed innocent until such accused is convicted of the crime.

Having taken notice of the judgment of the Supreme Court which is the Law of the land, the Circular, however, surprisingly deviates from the said law and permits the presentation of the accused before the media in major crimes by masking their faces.

Learned Assistant Government Pleader was unable to explain this incongruity but he has, however, requested for an adjournment for taking steps in consonance with the law declared by the Supreme Court and file an affidavit of the DGP in this regard.”

After the case was adjourned last, Mr. R.P. Thakur, who is the present Director General of Police, Andhra Pradesh, has filed his personal affidavit, wherein he has stated that the Circular dated 28.06.2018 has been duly revised, vide Circular No.340-1/DGP's Peshi/2018, dated 12.07.2018. The said Circular is enclosed, the relevant portion which reads as under:

“It is noticed often that the persons accused of criminal charges are shown before the media by the local police officers. This practice is not correct and it amounts to violation of right to privacy, as has been observed by the Hon'ble Courts.

A Division Bench of Hon'ble High Court of Judicature for the State of A.P. and for the State of Telangana has taken a serious view of the matter and expressed extreme displeasure over showing of the accused in front of media and television channels.

Earlier, a three Judge Bench of the Hon'ble Supreme Court of India also objected to the investigating agencies showing accused persons before the media, as it is an affront to the dignity of the

accused, who is presumed to be innocent, until such accused is convicted of the crime.

All the District Superintendents of Police, Commissioners of Police – Vijayawada and Visakhapatnam and other unit officers are strictly instructed that henceforth local police officers shall not produce the accused before media. The media briefings shall be confined to the points of preliminary facts without violating the orders of Hon'ble Courts.

Any deviation of these instructions will be viewed seriously and entail disciplinary action.”

As the police have taken remedial steps and banned production of the Accused before the Media, the issue relating to this aspect is closed. We hope and trust that the Police Department would henceforth scrupulously follow the Circular.

As regards the prayer in the writ petition, the respondents have produced the alleged detenu on 27.05.2018 before the jurisdictional Magistrate and that she is presently under Judicial custody. This aspect is not disputed by the learned counsel for the petitioner. He, however, submitted that the respondents have illegally detained the alleged detenu and flagrantly violated the guidelines contained in the judgment of the Supreme Court in D.K. BASU v. STATE OF WEST BENGAL¹.

The question of illegal custody being a disputed fact, it is neither feasible nor appropriate to adjudicate the same by this Court

¹ (1997) 1 SCC 416

in this writ petition. The said question needs to be decided based on the evidence adduced by both the parties. In this view of the matter, we refrain from undertaking any enquiry into the said aspect. Instead, the alleged detenu is given liberty to avail the Common Law remedies available to her for appropriate relief.

Subject to the liberty given, as above, the writ petition is closed. No order as to costs.

As a sequel to the closure of the writ petition, I.A.Nos.1 and 2 of 2018 shall stand disposed of as infructuous.



C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

17.07.2018.

NOTE: L.R. Copies and Press.
(B/O)
Msr

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Msr