

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice Gudiseva Shyam Prasad

Writ Petition No.19561 of 2018

Date: 01.08.2018

Between:

Smt.Kalvala Swarupa

... Petitioner

and

The State of Telangana
Rep. by its Prl.Secretary (POL)
For the State of Telangana
at Hyderabad and 2 others

...Respondents

Counsel for the Petitioner: Mr.M.Vijaya Kumar Goud

Counsel for the respondents: GP for Home (TS)

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 for setting the petitioner's son- Mr.Kalvala Chandrasekhar @ Chandu (for short 'the detenu') free after setting aside the order of his detention *vide* Proceeding No.315/WIC/2018/CSB-XI/18, dated 12-03-2018, of respondent No.3 as confirmed *vide* G.O.Rt.No.861, dated 05-05-2018, of respondent No.1.

We have heard Mr.M.Vijaya Kumar Goud, learned Counsel for the petitioner, and the learned Government Pleader for Home (TS) appearing for the respondents.

Under the impugned orders, the *detenu* has been detained on the ground that he is indulging in activities such as kidnap, acid attack/murder and hurts *etc.*, which would adversely affect the public order.

At the hearing, the learned Government Pleader has not disputed the fact that at the time of detention of the *detenu*, he was in judicial custody in connection with Crime No.160 of 2017 on the file of Zaffargadh Police Station.

From a perusal of the impugned detention order and the grounds of detention, it is evident that respondent No.3 has not

recorded his satisfaction that there is a possibility for the *detenu* to be released on bail and that on such release, he is likely to continue with his unlawful activities, which would cause disturbance to the public order. In **N. Meera Rani v. Government of Tamil Nadu**¹, the Supreme Court held as under:

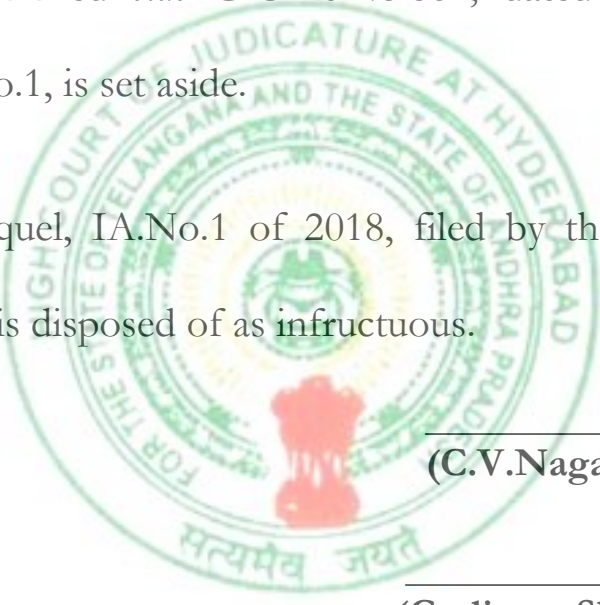
“Applying the above settled principle to the facts of the present case we have no doubt that the detention order, in the present case, must be quashed for this reason alone. The detention order read with its annexure indicates the detaining authority’s awareness of the fact of detenu’s jail custody at the time of the making of the detention order. However, there is no indication therein that the detaining authority considered it likely that the detenu could be released on bail. In fact, the contents of the order, particularly, the above quoted para 18 show the satisfaction of the detaining authority that there was ample material to prove the detenu’s complicity in the bank dacoity including sharing of the booty in spite of absence of his name in the FIR as one of the dacoits. On these facts, the order of detention passed in the present case on September 7, 1988 and its confirmation by the State Government on October 25, 1988 is clearly invalid since the same was made when the detenu was already in jail custody for the offence of bank dacoity with no prospect of his release. It does not satisfy the test indicated by the Constitution Bench in *Rameshwar Shaw v. District Magistrate, Burdwan* (AIR 1964 SC 334). We hold the detention order to be invalid for this reason alone and express no opinion on merits about the grounds of detention.”

¹ (1989) 4 SCC 418

In view of the above legal position and the failure of respondent No.3 to record his satisfaction as referred to above, the impugned order of detention is unsustainable and the same is liable to be set aside.

For the aforementioned reasons, the Writ Petition is allowed and the impugned detention order in Proceeding No.315/WIC/2018/CSB-XI/18, dated 12-03-2018, of respondent No.3, as confirmed *vide* G.O.Rt.No.861, dated 05.05.2018, of respondent No.1, is set aside.

As a sequel, IA.No.1 of 2018, filed by the petitioner for interim relief, is disposed of as infructuous.



(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad, J)

Dt: 1st August, 2018
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