

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

WRIT PETITION No.22833 of 2018

Date: 10.07.2018

Between :

A. Padma

... Petitioner

And

The State of Telangana,
rep. by its Principal Secretary,
Home Department,
Secretariat Buildings,
Hyderabad and others.

... Respondents

COUNSEL FOR PETITIONER : Mr. Hussain Amin,
representing Mr. V. Raghunath

COUNSEL FOR RESPONDENTS : A.G.P. attached to A.G. (T.S.)

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 the petitioner's husband, by name A. Narayana Swamy @ Madhu, s/o. Ramulu, (for short "the alleged detenu") before the Court, handover the detenu to the petitioner and direct respondent No.1 to cause an enquiry into the physical and mental torture of the detenu and submit a report before the Court.

The Inspector of Police of the 2nd respondent Police Station has filed a counter affidavit, *inter alia* stating that the alleged detenu was arrested at about 16.00 hours on 04.07.2018 in the hillocks at the outskirts of Bombaithanda village of Goreebhandram Forest, that when they tried to escape, the police party chased and apprehended one person, while 3 other persons, who accompanied him, fled away, that after registering Crime No.38/2018 under Section 384 r/w. Section 34 IPC and Section 25(1)(a) of Indian Arms Act, he was produced before the Judicial First Class Magistrate Court (for Naxalites) at Khammam on 05.06.2018 and that the learned Magistrate has remanded him to the judicial custody. The counter affidavit further referred to as many as 23 cases in which the alleged detenu was allegedly involved.

Sri Hussain Aamin, Advocate, representing Sri V. Raghunath, learned counsel for the petitioner, submitted that the alleged detenu was tortured in the police custody and that, therefore, an enquiry is required to be held on this aspect.

In our opinion, the question whether the alleged detenu was tortured in the police custody or not, is a question of fact, which needs to be adjudicated by the competent Forum. Under law, the accused in custody has a right to disclose the torture, if any, to the Jurisdictional Magistrate, who is conferred with adequate powers to take action against the erring police officials, in the event of such torture. Therefore, the alleged detenu is given liberty to make a statement before the Magistrate, if he was subjected to torture, and set law into motion.

Subject to the liberty given to the alleged detenu as above, the writ petition is disposed of as infructuous. No order as to costs.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

10.07.2018.
Msr

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