

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

WRIT PETITION No. 23390 of 2017

Date: 30th January, 2018

Between:

Md. Razia Begum

... Petitioner

And

The State of Telangana and 2 others

... Respondents

COUNSEL FOR PETITIONER : Mr. M.A.K. Mukheed

COUNSEL FOR RESPONDENTS: G.P. for Home, Telangana State

THE COURT MADE THE FOLLOWING:

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

This writ petition is filed to issue Habeas Corpus, to set aside the detention order proceedings No.C1/184/2017 dated 10.02.2017 of respondent No.2, as confirmed by G.O.Rt.No.947 dated 20.04.2017 of respondent No.1.

2. Sri M.S.P. Kamaraju, learned counsel for the detinue, submitted that the impugned order of detention suffers from total non-application of mind, in that, it is stated there in that the detinue, being a member of a gang, is indulging in commission of murder, rioting, criminal intimidation, attempt to murder, illegal possession of fire arms etc., and that in none of the nine cases referred to in the grounds of detention, the charges of murder and criminal intimidation have been made.

3. Learned Government Pleader for Home tried to justify the order of detention stating that, only at one place, the words 'murder' and "criminal intimidation" have been used and that nowhere else either in the grounds of detention or in the order of detention, the said allegation has been repeated.

4. In our opinion, the preventive detention being drastic in nature leading to denial of personal liberty to a citizen, otherwise than through due procedure, the detaining authority must apply its mind while passing the detention order. While the charges against the

detenue include attempt to murder, admittedly, he is not accused of murder or criminal intimidation in any of the nine criminal cases mentioned in the grounds of detention.

5. Thus, the detaining authority-respondent No.2 appears to have been swayed away by an incorrect assumption that the detenue is accused of murder and criminal intimidation. It could quite well be that respondent No.2 would not have invoked the draconian provisions of preventive detention if he had not formed an incorrect opinion that the detenue was accused of murder and criminal intimidation. Therefore, in our opinion, the impugned detention order suffers from non-application of mind and, therefore, the same cannot be sustained.

6. Accordingly, the impugned order of detention passed by respondent No.2, as confirmed by respondent No.1, is set aside. The detenue shall be forthwith released from detention.

7. The writ petition is allowed, accordingly.

8. As a sequel, W.P.M.P.No.28894 of 2017 shall stand closed.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

30th January, 2018
KSM

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WRIT PETITION No. 23390 of 2017

(Order of the Division Bench delivered by
Hon'ble Sri Justice C.V. Nagarjuna Reddy)

30th January, 2018

KSM