

*IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH*

WRIT PETITION No.27836 of 2018

Between:

N.Sarada,

W/o Nachukuri Sisindri

... Petitioner

And

The State of A.P., repled by its Principal
Secretary, Home Department, Velagapudi,
Amaravathi, AP and three others.

... Respondents

JUDGMENT PRONOUNCED ON 11.10.2018

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE T.AMARNATH GOUD

1. Whether Reporters of Local newspapers : No
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : Yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : Yes

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE T.AMARNATH GOUD

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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< Gist:

> Head Note:

! Counsel for the Petitioner: Mr. D.Purna Chandra Reddy

^ Counsel for the Respondents: Mr. C.S.Surya Prakasha Rao

? Cases Referred:

1. 2017 (1) ALT (CrI.) (AP) 262 (DB)
2. (1999) 1 SCC 417
3. (1991) 1 SCC 476

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD

WP.No.27836 of 2018

Date:11.10.2018

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.....Respondents

Counsel for the petitioner: Mr. D.Purna Chandra Reddy

Counsel for the respondents: Mr. C.S.Surya Prakasha Rao

The Court made the following:

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

The detention of one Natchukuri Sisindri—the husband of the petitioner under the provisions of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-offenders, Goondas, Immoral Traffic Offenders and Land-grabbers Act, 1986 (for short ‘the Act’) is assailed in this Writ Petition.

The main ground of challenge to the impugned detention is the undue delay in disposing of the petitioner’s representation by respondent No.1.

In the counter-affidavit filed by respondent No.2, he has *inter alia* sought to explain the delay by stating that the petitioner’s representation, dated 02.8.2018, sent to respondent No.1 was received by the latter on 06.8.2018; that on 09.8.2018, respondent No.1 called for the remarks; that respondent No.2 who received the communication through the office of the Superintendent of Police, Chittoor, furnished the same to respondent No.1 on 01.9.2018; that the remarks were received by respondent No.1 on 04.9.2018; and that on 07.9.2018, the petitioner’s representation was disposed of.

In *K.Swapna Vs. State of A.P.*¹ a Division Bench of this Court, speaking through one of us (CVNR, J) referred to and

¹ 2017 (1) ALT (Gr.) (AP) 262 (DB)

relied upon the judgment of the Supreme Court in *Rajammal Vs. State of Tamilnadu*² and *K.M.Abdulla Kunhi Vs. Union of India*³ and quashed the detention order challenged in the said Writ Petition by holding that the respondents therein failed to explain the time lag between 11.5.2016 to 11.6.2016 by offering reasonable explanation.

The following observations in *K.M.Abdulla Kunhi* (3 supra) were extracted by this Court in *K.Swapna* (1 supra), which are apt to be reproduced hereunder:

“It is a constitutional mandate commanding the authority concerned to whom the detenu submits his representation to consider the representation and dispose of the same as expeditiously as possible. The words as soon as may be occurring in clause-(5) of Article-22 reflects the concern of the Framers that the representation should be expeditiously considered and disposed of with a sense of urgency without an avoidable delay. However, there can be no hard and fast rule in this regard. It depends upon the facts and circumstances of each case. There is no period prescribed either under the Constitution or under the detention law concerned, within which the representation should be dealt with. The requirement, however, is that there should not be supine indifference, slackness or callous attitude in considering the representation. Any unexplained delay in the disposal of representation would be a breach of the constitutional imperative and it would

² (1999) 1 SCC 417

³ (1991) 1 SCC 476

render the continued detention impermissible and illegal.”

In *Rajammal* (2 supra), a three Judge Bench of the Apex Court quashed the detention order on the ground that the State failed to explain the six days delay in disposing of the representation of the petitioner therein.

Applying the ratio laid down in the afore-mentioned judgments to the facts of the present case, we are of the opinion that respondent Nos.1 and 2 have not acted as swiftly as they were required to act in order to comply with the constitutional mandate of Article-22 (5) of the Constitution of India and took 31 days to dispose of the petitioner's representation. We are, therefore, of the opinion that the impugned detention order is not sustainable and the same is, accordingly, quashed.

The Writ Petition is, accordingly, allowed.

As a sequel to allowing of the Writ Petition, I.A.No.1 of 2018 filed for interim relief is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE T.AMARNATH GOUD

11th October, 2018

Note:

LR copies to be marked.

B/o

DR