

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

WRIT PETITION No.30290 of 2018

DATE: 11-10-2018

Between:

Palivela Leela

..... PETITIONER

AND

The State of Andhra Pradesh,
rep.by its Principal Secretary,
General Administration Department (Law & Order)
A.P.Secretariat at Velagapudi,
Guntur District,
Andhra Pradesh and 2 others

.....RESPONDENTS

COUNSEL FOR THE PETITIONER : Sri V.RAMAKRISHNA REDDY

COUNSEL FOR RESPONDENTS : Sri C.S.SURYAPRAKASHRAO
Spl.Govt.Pleader



THE COURT MADE THE FOLLOWING:

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

WRIT PETITION No.30290 of 2018

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

The detention of the son of the petitioner, by name, Palivela Raju @ Stick (for short "the detenu"), 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 questioned in this writ petition on multiple grounds.

At the hearing, the learned counsel for the petitioner has laid emphasis on the ground that out of 9 crimes, referred to and relied upon in the impugned order of detention by respondent No.2, the last of the crimes, viz., Cr.No.118/2016 was registered on 17.04.2016 and after a gap of more than one year and ten and half months, the impugned detention order was passed. Learned counsel placed reliance on a Division Bench judgment of this court in *Paligili Rajasekhar v. State of Andhra Pradesh* {W.P.No.42192 of 2017, dated 27.02.2018}, wherein the Division Bench, one of us (CVNR,J) speaking for the Bench, quashed the detention order on the ground that there was a time gap of nearly 15 months between the registration of the last criminal case and the passing of the detention order.

A perusal of the said judgment, referred to supra, shows that the Division Bench has referred to the judgment in *Lakshman Khatik v. State of West Bengal*¹ wherein the Supreme Court held as under:

¹ (1974) 4 SCC 1

“5. All the three grounds on which the District Magistrate purports to have reached the required satisfaction are based on incidents which took place in rapid succession in the month of August, 1971. The first incident of unloading 5 bags of rice took place in the afternoon of August 3, 1971. The second incident took place on August 5, 1971 also in the afternoon practically at the same place as the first incident. This time also some rice was removed from the trucks carrying rice. The third incident took place in the afternoon of August 20, 1971 also at the same place. That also related to the removal of some rice from loaded trucks. It is not clear from the record whether the petitioner was prosecuted for the theft, especially when it is seen that the first incident of removal of rice was witnessed by two constables. However, that might be, it appears to us that the District Magistrate could not have been possibly satisfied about the need for detention on March 22, 1972 having regard to the detenu's conduct some 7 months earlier. Indeed mere delay in passing a detention order is not conclusive, but we have to see the type of grounds given and consider whether such grounds could really weigh with an officer some 7 months later in coming to the conclusion that it was necessary to detain the petitioner to prevent him from acting in a manner prejudicial to the maintenance of essential supplies of food grains. It is not explained why there was such a long delay in passing the order. The District Magistrate appears almost to have passed an order of conviction and sentence for offences committed about 7 months earlier. The authorities concerned must have due regard to the object with which the order is passed, and if the object was to prevent disruption of supplies of food grains one should think that prompt action in such matters should be taken as soon as incidents like those which are referred to in the grounds have taken place. In our opinion, the order of detention is invalid.”

Following the ratio laid down by the Supreme Court in the above judgment, the Division Bench of this Court quashed the detention order passed in the said case.

Mr.C.S.Suryaprakashrao, learned Spl. Govt. Pleader, appearing for respondent No.2, failed to offer any explanation worthy of acceptance for the long gap between the date of the alleged commission of Cr.No.118 of 2016 and the passing of the detention order.

Applying the ratio laid down in the judgments, discussed above, the impugned detention order is not sustainable and the same is accordingly quashed.

In the result, the Writ Petition is allowed. No order as to costs.

C.V.NAGARJUNA REDDY,J

T.AMARNATH GOUD,J

Date: 11.10.2018
Dsr

