

**THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY**

WRIT PETITION No. 28198 OF 2019

ORDER: (Per the Hon'ble the Chief Justice Sri Raghvendra Singh Chauhan)

The present habeas corpus petition has been filed *inter alia* on the ground that on 18.12.2019 the police has picked up Ms. D. Devendra, D/o. Sommaiah, Ms. M. Swapna, W/o. Devender, and Mr. M. Sandeep, S/o. Yadagiri. Subsequently, their whereabouts are unknown. Therefore, the petitioner claims that they are being illegally confined, and are being kept in police custody in violation of procedure established by law. Therefore, the fundamental rights of the detainees under Article 21 of the Constitution of India is being grossly violated by the respondents.

By order dated 18.12.2019 this Court had directed Mr.S. Santosh Kumar, the learned Special Government Pleader, to produce the detainees on 19.12.2019 before this Court. However, on 19.12.2019, instead of producing the detainees, the respondents submitted a counter. According to the learned counsel for the respondents, on 19.12.2019 upon a report submitted by the Sub-Inspector of Police, Police Station, Cherla, an FIR, namely FIR No. 105 of 2019, was chalked out for offences under Sections 120-B IPC, and Sections 10, 13, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967, and under Section 8(1)(2) of the Telangana State Public Security Act. Moreover, according to the learned counsel, in the complaint filed by the Sub-Inspector of Police, it was stated that the police had intercepted two persons, namely Mr. Anil Kumar, and Mr. Dasarapu Suresh. Upon the statements given by these two persons, the police had continued the investigation against the detainees. For, these persons had named the detainees as working as courier to the outlawed CPI (Maoist) Telangana State Committee. Furthermore, according to the learned

counsel, it is in connection with the said FIR that the detenues were taken into police custody on 18.12.2019. They were produced before the concerned judicial officer on 19.12.2019. The learned judicial officer has remanded the detenues into judicial custody. Therefore, according to the learned counsel, presently, the three detenues are in judicial custody. Hence, the custody cannot be said to be an illegal one.

However, on 19.12.2019, the learned counsel for the petitioner insisted that whether the detenues have been picked up, and arrested, and taken into police custody legally or illegally would be known only if the detenues were to be produced before this Court. Therefore, this Court directed the learned Special Government Pleader to ensure that the three detenues are produced before this Court on 20.12.2019. Consequently, the three detenues have been produced before this Court today.

This Court had an occasion to speak to Ms. D. Devendra. However, as it is imperative to record the statement of the detenues, this Court directed, in the morning session, that the statements of the detenues should be recorded by the learned Registrar General of this Court, Mr. A. Venkateswara Reddy. Consequently, their statements have been recorded. The statements have been produced by the learned Registrar General before this Court. The same shall be taken on record.

A bare perusal of the statements given by the detenues clearly reveals that they have informed the Court that they were taken into the police custody, on the morning of 18.12.2019, by the police, who were in plain clothes. They were subsequently interrogated by the police. According to Mr. D. Devendra, she had informed the police that she is a member of the Chaitanya Mahila Sangam ('CMS'). She has further informed the police that although she was married to one C. Prabhakar in 2004, her husband was killed in an encounter on 24.10.2016. She

further denied any connection or relationship with any Maoist organisation. She further claimed that she became the Editor of the Mahila Sangam Magazine in 2010. Ever since the year 2000, she has been working with CMS. She further narrated the fact that she was picked up by the police, interrogated by the police, and subsequently produced before the judicial magistrate who has sent her to judicial custody. Similar statement has also been given by Ms. T. Swapna.

Mr. M.Sandeep, on the other hand, has stated that he is an Advocate by profession and he has been practising at Nampally Courts Complex since March, 2019. He further states that he was the Secretary of the Telangana Vidyarthi Vedika. However, he too claims that he has no connection with any Maoist organisation. According to all three detainees, it is the police, who has planted certain documents, certain literature, and has forced them to sign certain blank papers while they were in police custody. But nonetheless, all the three detainees did admit that they were produced by the police on 19.12.2019 before the Judicial Magistrate. The Judicial Magistrate has sent them into judicial custody.

A bare perusal of the facts narrated above would clearly reveal that, as of today, the detainees continue to be in judicial custody, that too, due to an order passed by the learned Judicial Magistrate.

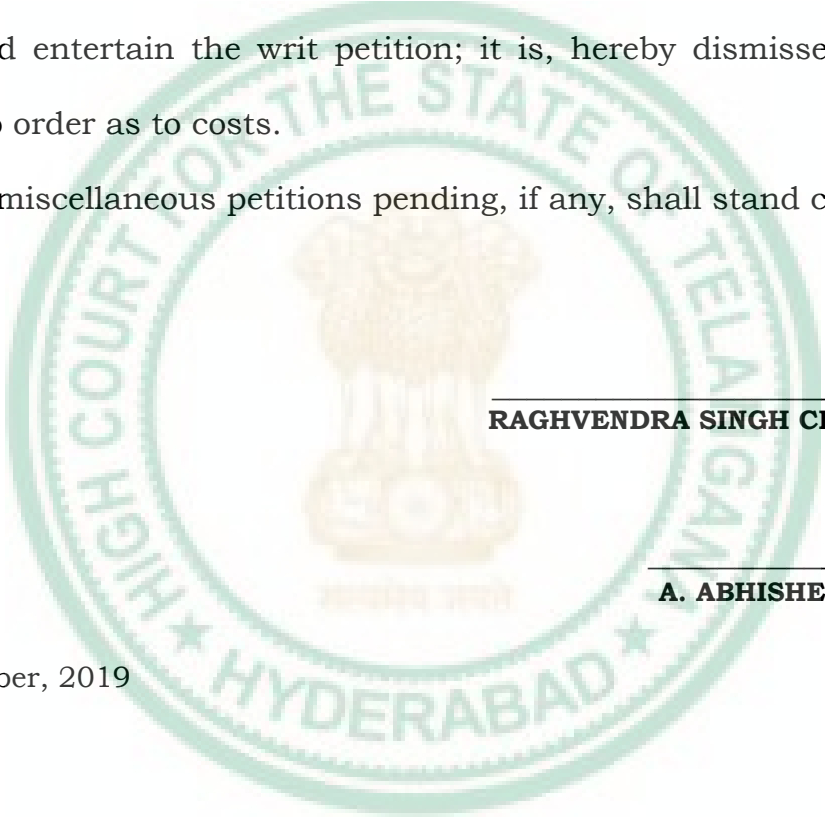
Therefore, this Court has asked the learned counsel for the petitioner whether the custody of the detainees can be said to be an illegal one as of today? To this query, the learned counsel submits that although, as of today, the custody cannot be said to be an illegal one, the petitioner is perturbed by the fact that the police has picked up, and has taken the detainees into the custody in violation of procedure established by law.

Even if the petitioner is of the opinion that the detenues have been picked up, and taken into police custody in violation of procedure established by law, the petitioner, and the detenues have ample legal remedies to challenge the action of the police.

But nonetheless, since the detenues continue to be in judicial custody, that too, on the basis of an order passed by the learned Judicial Magistrate, obviously, the custody is not an illegal one. In fact, presently, the custody is a legal one.

Therefore, for the reasons stated above, this Court does not find any ground entertain the writ petition; it is, hereby dismissed. There shall be no order as to costs.

The miscellaneous petitions pending, if any, shall stand closed.



RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

20th December, 2019
Tsr/Pln

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