

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION No.20533 of 2019

13.02.2020

Between:

Syeda Zoya Fatima

...Petitioner

and

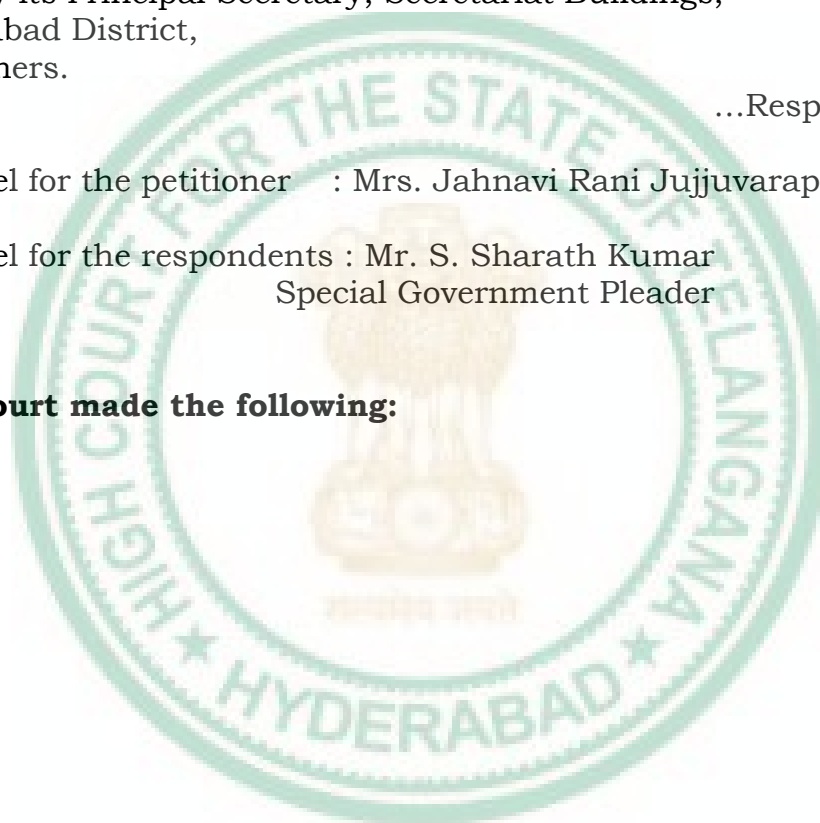
The State of Telangana,
Through General Administration Spl. Law & Order Dept.,
Rep. by its Principal Secretary, Secretariat Buildings,
Hyderabad District,
and others.

...Respondents

Counsel for the petitioner : Mrs. Jahnavi Rani Jujjuvarapu

Counsel for the respondents : Mr. S. Sharath Kumar
Special Government Pleader

The Court made the following:



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

The petitioner has challenged the preventive detention order, dated 22.07.2019, passed by the Commissioner of Police, and the confirmation order.

Mr. S. Sharath Kumar, the learned Special Government Pleader, has raised a preliminary objection with regard to the maintainability of the present Habeas Corpus petition. According to the learned counsel, despite the issuance of the preventive detention order on 22.07.2019, the detenu cannot be discovered by the Police. Hence, he is roaming freely. Thus, he is not in the custody of the respondents. Therefore, the very question of his custody being an illegal one does not even arise presently.

On the other hand, the learned counsel for the petitioner submits that since the preventive detention order has been passed by the respondents, the detenu is unable to come back home due to the fear of being detained by the Police. Moreover, since the very proclamation of his being an absconder is illegal, the Habeas Corpus petition is certainly maintainable.

Heard the learned counsel for the parties.

It is, indeed, trite to state that the Habeas Corpus jurisdiction is an extremely limited one. The said jurisdiction extends to examining whether the custody of a person is illegal or a legal one. The very word "custody" implies "confinement of a person" either by the State, or an instrumentality of the State, or by a private person. As long as the person is roaming freely, he cannot be said to be in "the custody" of the respondents.

Admittedly, the petitioner's husband is neither located by the Police, nor taken into Police custody. Therefore, he continues to be a person who is free. Hence, the Habeas Corpus petition is not maintainable before this Court.

Therefore, the Writ Petition is, hereby, dismissed on the ground of non-maintainability.

The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

13.02.2020
vs

