

HIGH COURT FOR THE STATE OF TELANGANA

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

Writ Petition No.25562 of 2019

Date: 30.01.2020

Between:

Korepu Anjaiah

...Petitioner

and

The State of Telangana,
Rep. by its Principal Secretary to Government
General Administration Department (Poll)
Secretariat, Hyderabad,
and two others.

...Respondents

Counsel for the Petitioner : Smt. Sujatha Kurapati

Counsel for the respondents : Sri S. Sharath,
Special Government Pleader for
The Advocate General

The Court made the following:

ORDER: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

Mr.Korepu Anjaiah, the brother of the detenu *viz.*, Korepu Anil @ Akhil, has filed the present Writ Petition, challenging the Detention Order passed by the 2nd respondent, who by exercising the powers conferred under Section 3 (2) of the Telangana Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders, Land Grabbers, Spurious Seed Offenders, Insecticide Offenders, Fertiliser Offenders, Food Adulteration Offenders, Fake Document Offenders, Scheduled Commodities Offenders, Forest Offenders, Gaming Offenders, Sexual Offenders, Explosive Substances Offenders, Arms Offenders, Cyber Crime Offenders and White Collar or Financial Offenders Act, 1986 (in short, 'the Act'), vide proceedings C.No.65/PDC/KNR/2019, dated 07.04.2019, and confirmed by the 1st respondent vide G.O.Rt.No.1269, General Administration (Spl. (Law & Order) Department dated 08.05.2019, alleging that the detenu Korepu Anil @ Akhil is a Goonda as he had indulged in the offences of attempt to murder, kidnapping and extortion and thereby creating large scale fear and panic among the general public, adversely affecting the public order and thereby acted in a manner prejudicial to maintenance of public order, apart from disturbing peace and tranquility in the society. The ground on which the impugned detention order is passed by the 2nd respondent is that during the year 2019 the detenu was involved in three similar offences namely (1) Crime No.138/2019 of Karimnagar-II Town PS registered for the offences punishable under Sections 148, 323, 324, 341, 363 and 506 read with 149 IPC, (2) Crime No.150/2019 of Karimnagar-II Town PS registered for the offences punishable under Sections 324 and 506

IPC, and (3) Crime No.159/2019 of Karimnagar-II Town PS registered for the offences punishable under Sections 354-D, 384 and 506 IPC and Section 12 of Protection of Children from Sexual Offences Act (for short 'POCSO Act').

2) It is the case of the petitioner that the detenu was falsely implicated in the above referred cases. Even though, the detenu is likely to get bail in the above referred cases, he is likely to be continued in judicial custody due to passing of the impugned detention order and the same is passed only to see that the detenu does not come out of the jail. Hence, the present writ petition.

3) Heard the learned Counsel for the parties, and perused the impugned order.

4) Mrs.Sujatha Kurapati, learned counsel appearing for the petitioner, submits that relying only three cases registered against the detenu, that too in the year 2019, the impugned detention order is passed. She further submits that the alleged cases do not amount to 'disturbing the public order'. The same are confined within the ambit and scope of the word 'law and order'. Since the offences alleged are under the provisions of the Indian Penal Code and the POSCO Act, the detenu can certainly be tried and convicted under the Indian Penal Code and POSCO Act. Thus, there was no need for the detaining authority to invoke the draconian preventive detention laws. Hence, the impugned order tantamounts to the colourable exercise of power. Thus, the impugned orders are legally unsustainable.

5) On the other hand, Mr.S.Sharath Kumar, the learned Special Government Pleader, pleads that the bail applications moved by the detenu are pending before the concerned Courts. The series of crimes allegedly committed by him were sufficient to cause a feeling of insecurity and fear in the minds of the people at large. Since the *modus* of committing the crime is harassing the girl students in the name of love and later extorting money and gold by threatening them with dire consequences, it has created sufficient panic and fear in the minds of the general public. Therefore, the detaining authority was legally justified in passing the impugned detention order. Hence, the learned Special Government Pleader has supported the impugned orders.

6) In view of the submissions made by both the sides, the point that rises for determination in this Writ Petition is:

“Whether the detention order, dated 07.04.2019, passed by the 2nd respondent, and the confirmation Order, dated 08.05.2019, passed by the 1st respondent, are liable to be set aside or not?”

POINT:

7) In the instant case, the detaining authority relied on three cases registered against the detenu for preventively detaining him. The below tabular form shows the date of occurrence, the date of registration of FIRs, the offence complained of and their nature, such as bailable/non-bailable or cognizable/non-cognizable.

Sl. No.	Crime No.	Date of occurrence	Date of registration of FIR	Offences	Nature
1.	138/2019 of Karimnagar II Town PS	17.03.2019	17.03.2019	148, 323, 324, 341, 363, 506 R/W.149 IPC	Cognizable/ Non-Bailable
2.	150/2019 of Karimnagar II Town PS	27.02.2019	21.03.2019	324 and 506 IPC	Cognizable/ Non-Bailable
3.	159/2019 of Karimnagar II Town PS	07.11.2018	24.03.2019	354-D, 384 and 506 IPC	Cognizable/ Non-Bailable

8) It is seen from the record that crime No.159/2019 of Karimnagar-II Town PS was registered against the detenu based on the complaint that he was stalking and pestering a girl aged 16 years studying Intermediate I Year by professing love for some months, due to which the victim girl was terrified and did not inform her parents initially, but after completion of her examination she informed the same to her parents. Her father lodged a complaint against the detenu resulting in registration of case against the detenu for the offence under Sections 354D, 384 and 506 IPC. Inasmuch as the offence committed by the detenu under Section 354D is a solitary one, the same has the effect of not only terrifying the victim, but also create fear psychosis in the minds of the other girls in the said area. Moreover, in the event of the release of the detenu, there is every likelihood of the detenu not only following and harassing the victim girl again, he may also try to threaten the victim girl and her family members from giving evidence in the criminal case, committing the crime again.

9) In **Haradhan Saha v. State of W.B.**¹, a Constitution Bench has held that even if a person is liable to be tried in a criminal Court for commission of criminal offence or is actually been so tried that does not debar the authorities from passing a detention order under the preventive detention law.

10) In **Arun Ghosh** (supra), the Hon'ble Supreme Court has clearly opined that *what in a given situation may be a matter covered by law and order, on account of its impact on the society may really turn out to be one of 'public order'*. It has further observed as under:

¹ (1975) 3 SCC 198

“Take the case of assault on girls. A guest at a hotel may kiss or make advances to half a dozen chamber maids. He may annoy them and also the management but he does not cause disturbance of public order. He may even have a fracas with the friends of one of the girls but even then it would be a case of breach of law and order only. Take another case of a man who molests women in lonely places. As a result of his activities girls going to colleges and schools are in constant danger and fear. Women going for their ordinary business are afraid of being waylaid and assaulted. The activity of this man in its essential quality is not different from the act of the other man but in its potentiality and in its affect upon the public tranquility there is a vast difference. The act of the man who molests the girls in lonely places causes a disturbance in the even tempo of living which is the first requirement of public order. He disturbs the society and the community. His act makes all the women apprehensive of their honour and he can be said to be causing disturbance of public order and not merely committing individual actions which may be taken note of by the criminal prosecution agencies.”

11) In the case of **Madhu Limaye v. Sub-Divisional Magistrate²**, the Apex Court had clearly opined that *acts which disturb public tranquility or are breaches of the peace should not be given a narrow meaning, but should be given a liberal interpretation. For the expression ‘in the interest of public order’ is very wide amplitude.*

12) The offences committed by the detenu are very grave in nature and relate to extortion, causing hurt and stalking and harassing a girl in the name of love, etc. If the detenu is released, there is every likelihood of him committing similar crimes again, tamper with the evidence, threaten the witnesses, or the victim.

² (1970) 3 SCC 746

13) Hence, for the reasons stated above, the impugned detention order is legally sustainable. This Court does not find any merit in the present writ petition.

14) In the result, the Writ Petition is dismissed. No costs.

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

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

Date : 30.01.2020
smr/sur

