

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.26315 of 2019

Date : 30.01.2020

Between :

Banoth Sharada

... Petitioner

and

The State of Telangana,
Rep. by its Principal Secretary to Government (POLL),
General Administration (Special Law and Order)
Department, Secretariat, Hyderabad,
and another

... Respondents

Counsel for the petitioner: Mr.P.Prabhakar Reddy

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

The Court made the following:

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

Mrs.Banoth Sharada, the mother of the detenu herein, 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.182/WRC/CSB-XI/2019, dated 28.02.2019, and confirmed by the 1st respondent vide G.O.Rt.No.1007, General Administration (Spl. (Law & Order) Department, dated 08.04.2019, alleging that the detenu *viz.*, Banoth Rakesh has been habitually committing offences of outraging the modesty of women, and thereby creating large scale fear and panic among the general public, which are prejudicial to the maintenance of public order. The ground on which the impugned detention order is passed by the 2nd respondent is that in the year 2018, the detenu was involved in two similar grave offences *viz.*, (1) Crime No.99 of 2018 and (2) Crime No.235 of 2018 of PS Kazipet.

2) It is the case of the petitioner that the detenu was falsely implicated in the above referred cases. Even though, the detenu was granted bail in the above referred cases, he continued to be in judicial custody due to passing of the impugned detention order

and the same is passed only to see that he 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) Sri P.Prabhakar Reddy, the learned counsel appearing for the petitioner, submits that relying only on two cases registered against the detenu in the year 2018, the impugned detention order is passed. He further submits that the alleged cases do not amount to 'disturbing the public order'. They are confined within the ambit and scope of the word 'law and order'. Since the offences alleged are under the provisions of Indian Penal Code, the detenu can certainly be tried and convicted under the provisions of the Indian Penal Code. 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 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 detenu obtained bail from the concerned Court in the above referred cases. 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 trying to outrage the modesty of a women and college student, it has created sufficient panic and fear in the minds of general public especially the women folk. 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 28.02.2019, passed by respondent No.2, and the Confirmation Order, dated 08.04.2019, passed by the respondent No.1, are liable to be set aside or not?”

POINT:

7) In the instant case, the detaining authority relied on two 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 offences 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.	99/2018 of Kazipet P.S.	11.05.2018	12.05.2018	Secs.448, 506 and 354 IPC	Cognizable/ Non-Bailable
2.	235/2018 of Kazipet P.S.	10.11.2018	11.11.2018	Secs.354, 506, 509 r/w 34 IPC	Cognizable/ Non-Bailable

8) At the time of hearing, it is brought to the notice of this Court that the impugned detention order is passed mainly relying on the above referred two cases. But, subsequently, in both the cases, the Police filed charge sheet. Charge sheet in crime No.99 of 2018 of Kazipet PS was numbered as C.C.No.2520/2018 on the file of the IV Additional Junior Civil Judge, Warangal, wherein the detenu was shown as the sole accused. In the said case, after due trial, the trial Court had acquitted the accused-detenu vide judgment dated 30.09.2019. Insofar as the charge sheet filed in crime No.235 of 2019 is concerned, the same was numbered as Sessions Case No.57/2019 wherein the detenu was arrayed as accused No.1, and after due trial, the learned Special Judge for

trial of cases under Protection of Children from Sexual Offences Act-cum-I Additional Sessions Judge, Warangal, vide judgment dated 20.09.2019, had acquitted the accused-detenu.

8) In view of the acquittal of the detenu-accused in both the cases, which form the basis for the respondents to invoke the provisions of the Act, the impugned detention order is legally unsustainable.

9) In the result, the Writ Petition is allowed. The impugned detention order, dated 28.02.2019 and the Confirmation Order, dated 08.04.2019 are hereby set aside. The respondents are directed to set the *detenu*, namely Mr.Banoth Rakesh, S/o.late Laxman, at liberty forthwith, in case he is no longer detained in the criminal cases, which have been registered so far against him.

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

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

Date : 30.01.2020
smr / sur