

Telangana High Court

Bench: Justice K. Lakshman And Smt. Justice K. Sujana

Date of Decision: 20 October 2023

WRIT PETITION No.27493 OF 2023

Annaboina Nagarjuna YadavPetitioner

Versus

The State Of TelanganaRespondent

Section, Acts, Rules, Articles:

Sections 448, 452, 294(b), 506, 34 of IPC

Sections 3 (1) (r) (s) and 3 (2) (va) of Scheduled Castes and Scheduled Tribes (POA) Amendment Act, 2015

Section 41-A of the Cr.P.C.

Articles 21 and 22 of the Constitution of India

Subject: Challenge the detention order Subjective Satisfaction - Requirement for the Detaining Authority to reach a subjective satisfaction when issuing a detention order - Lack of proper consideration of the entire material on record

Headnotes:

Writ of Habeas Corpus - Detention Order Challenged - Allegations of Illegal Detention - Petitioner seeks the production of the detenu and the setting aside of the detention order - Multiple criminal cases invoked as grounds for detention - Examination of the nature of these cases and their impact on public order. [Para 2-5]

Subjective Satisfaction - Requirement for the Detaining Authority to reach a subjective satisfaction when issuing a detention order - Lack of proper consideration of the entire material on record - Insufficient reasoning regarding disturbance to public order due to the detenu's actions. [Para 9-10]

Allowance of Writ Petition - Impugned detention order declared illegal and set aside - Direction to release the detenu if no longer required in other criminal cases - No order as to costs. [Para 10]

Referred Cases: None.

ORDER

: (per Hon'ble Sri Justice K. Lakshman)

Heard Ms. Ravula Sowmya Reddy, learned counsel for the petitioner and Mr. Godugu Mallesham, learned Assistant Government Pleader representing learned Additional Advocate General appearing on behalf of the respondents.

2. This Writ Petition is filed to issue Writ of *Habeas Corpus* to direct the respondent No.3 to produce the *detenu* i.e., Mr. Annaboina Thirupathi Yadav @ AT Yadav, now detained in Central Prison, Cherlapally, Medchal-Malkajgiri District, before this Hon'ble Court and to set aside the impugned detention order vide proceedings No.Rc.No.C1/967/2023, dated 14.09.2023 passed by respondent No.2 and consequential Confirmation Order, if any passed by respondent No.1 as illegal, arbitrary, improper, unilateral, unconstitutional and violative of Articles 21 and 22 of the Constitution of India and to forthwith release the *detenu*.

3. The impugned detention order dated 14.09.2023 was passed by respondent No.2 relying on three (03) ground cases, i.e., (i) Crime No.303 of 2023, (ii) Crime No.306 of 2023 and (iii) Crime No.302 of 2023;

(i) Crime No.303 of 2023 was registered against the *detenu* for the offences punishable under Sections 452, 294(b) and 506 r/w 34 of IPC and Sections 3 (1) (r) (s) and 3 (2) (va) of Scheduled Castes and Scheduled Tribes (POA) Amendment Act, 2015 by Police, Vemulawada Town Police Station. He is accused No.1. The Court below has already granted bail to him. The Investigating Officer had already completed investigation and laid charge sheet against him.

(ii) Crime No.306 of 2023 was registered against the *detenu* for the offences punishable under Sections 448, 294 (b), 504 and 506 of IPC by Police, Vemulawada Town Police Station. He is the sole accused and the

Court below granted bail to him. The Investigating Officer has already completed investigation and laid charge sheet against him. It was taken on file *vide* C.C.No.512 of 2023. In Crime No.303 of 2023, the allegations leveled against the detenu are that complainant is the Sarpanch of the village and the detenu is involved in Gram Panchyat works unnecessarily. On 25.06.2023, the proposed detenu along with associates abused the complainant by taking his caste name (Mala-SC). On the complaint lodged by Defacto-Complainant, a case in Crime No.303 of 2023 was registered. On coming to know about the same on 01.07.2023, detenu went to the house of the complainant, trespassed into his house, abused him in filthy language and threatened him with dire consequences. As discussed supra, the complainant in Crime Nos.303 of 2023 and 306 of 2023 is one and the same and there is political rivalry between alleged detenu and the Defacto Complainant.

(iii) Crime No.302 of 2023, was registered against the detenu for the offences punishable under Sections 324 and 506 of IPC and Section 3 (1) (r) (s) of Scheduled Castes and Scheduled tribes (POA) Amendment Act, 2015 by Police, Karimnagar-II Town Police Station. He is accused No.1. The Court below has already granted bail to him. The Investigating Officer on completion of investigation laid charge sheet against the detenu and the same was taken on file *vide* Spl S.C.No.175 of 2023. The allegations leveled against the detenu are that on 29.06.2023 complainant went to Ramnagar locality for attending the plumbing works of drainage. Detenu is residing in the said locality, at about 16.00 hours the complainant went to the house of the detenu and asked a piece of pipe by touching their gate. On noting the same, the proposed detenu and his brother came out from the house and abused the complainant and assaulted him.

4. In Crime No.364 of 2023, the offences are punishable under Sections 420, 290 and 506 of IPC. Considering the punishment prescribed for the offences alleged against the detenu, the Investigating Officer has already invoked the procedure laid down under Section 41-A of Cr.P.C. The investigation is pending. The detenu is the sole accused. The allegations leveled against the detenu are that complainant used to supply chicken feed from his company to the detenu-proprietor of Sai Teja Poultry Farm. About two years ago, the Detenu sold his poultry farm, till then he was due an amount of Rs.16,79,138/- to the company of the complainant. On 09.08.2023 at about 8.30 hours, when the complainant along with his employee went to the house of the detenu and asked to clear the due amount and detenu abused the complainant in filthy language, threatened with dire consequences.
5. Perusal of the allegations leveled against the detenu in the aforesaid crimes would reveal that there are disputes between individuals. As stated supra, complainant in Crime Nos.303 of 2023 and 306 of 2023 is one and the same. There is political rivalry between the complainant and detenu. There is no disturbance to the public order. Respondent No.2/Detaining Authority has to consider the entire material on record, more particularly due to the acts committed by the detenu, there is disturbance to the public order. In the present case, there is no consideration of the said fact and entire material on record and the subjective satisfaction that was arrived by respondent No.2/Detaining Authority that due to the acts committed by the detenu, there was disturbance to the public order.
6. In all the aforesaid crimes, the allegation leveled against the detenu is that he is habitual committing assault on common people and weaker section persons without any reasons and indulging in Goonda activities.
7. Respondent No.2/Detaining Authority referred five (05) cases in which the detenu was accused i.e., (i) S.C.No.415 of 2012 (arising out of Crime No.53

of 2011 of Boinpalli Police Station), detenu was acquitted vide judgment dated 07.11.2012, (ii) C.C.No.360 of 2015 (arising out of Crime No.107 of 2015), the detenu was acquitted vide judgment dated 21.02.2022. Other three (03) crimes are pending. However, though respondent No.2/Detaining Authority referred the aforesaid five (05) cases, but he has not relied upon. He cannot even refer the case in which detenu got acquitted on completion of trial. In Crime No.18 of 2020, the offences alleged against the detenu is punishable under Sections 498-A, 506 and 435 r/w 34 of IPC.

The said crime was registered on the complaint filed by his wife.

There are matrimonial disputes between them.

8. The aforesaid facts would reveal that respondent No.2/Detaining Authority without considering the entire material on record, more particularly, nature of offences and the manner in which it was committed by the detenu issued the impugned detention order. The Detaining Authority shall come to a subjective satisfaction while issuing impugned detention order. There is no subjective satisfaction in the present case.
9. According to us, the impugned detention order is not on consideration of the entire material on record and there is no subjective satisfaction with regard to disturbance to the public order due to the acts committed by the detenu.
10. In the light of the aforesaid discussion, this Writ Petition is allowed, the impugned detention order dated 14.09.2023 is illegal and liable to be set aside and accordingly the same is set aside. The respondents are directed to set the detenu i.e., Annaboina Thirupathi Yadav @ AT Yadav S/o. Yellaiah, Aged: 42 years, Cast: Yadav, R/o. H.No.1-11/1, R & R Colony, Shabashpalli Village, Vemulawada Urban Mandal, Rajanna Sircilla District, free, forthwith, if he is no longer required in any other criminal cases. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in writ petition shall stand closed.

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