
(1992) 07 SC CK 0009

In the Supreme Court Of India

Case No : Writ Petition (Cri.) No. 203 of 1992

Kosanapu Ramreddy

APPELLANT

Vs

State of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 28-07-1992

Acts Referred:

Constitution of India, 1950 — Article 32

Criminal Procedure Code, 1973 (CrPC) — Section 167(2)

Terrorist and Disruptive Activities (Prevention) Act, 1987 — Section 20

Citation : AIR 1994 SC 1447 : (1994) CriLJ 2121

Hon'ble Judges : P. B. Sawant, J;N. P. Singh, J;M. N. Venkatachaliah, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

M.N. Venkatachaliah, J.—We have heard Shri .P.C. Jain, learned senior counsel for the petitioner and Shri A. S. Nambiar, learned senior counsel for the State of Andhra Pradesh.

2. In this petition under Article 32 of the Constitution of India, the legality of the order dated 3-6-1992 made by the Designated Court directing the accused person, a certain Ashok Reddy against whom a case under the Terrorists and Disruptive Activities (Prevention) Act, 1987 is registered and is under investigation, be handed over from judicial custody to police custody for a period of three days for purposes of investigation of the case is assailed. The learned Magistrate before whom the accused person was initially produced for detention pending investigation had ordered the accused to judicial custody. Thereafter an application was made before the Designated Court for police custody for purposes of investigation. It is not disputed that the impugned order dated 3-6-1992 made by the Designated Court was well within the period of 60 days -- Section 20 of the Terrorists and Disruptive Activities (Prevention) Act, 1987 enlarges the period of 15 days referred to in Sub-section (2) of Section 167 of the Criminal Procedure Code, into 60 days - had not expired. The circumstances

that the operation of the order was subsequently stayed by this Court in these proceedings and that during the period of such stay the sixty days period has run out does not affect the validity and efficacy of the order dated 3-6-1992 if the challenge thereto fails.

3. Learned Counsel for the petitioner, strenuously urged that the ground on which police custody is sought is itself vague and impermissible, inasmuch as it referred to the need for discovery based on confessional statement allegedly made by the accused before the Additional Superintendent of Police, and that, with the lapse of time, any information leading to discovery would really be meaningless. Further, learned Counsel expressed serious apprehensions about the safety of the life and limb of the accused in the hands of the police.

4. We have considered the submissions of learned Counsel on both sides. That a person held in judicial custody could, if circumstances justify, be transferred to police custody or vice versa within a period of 15 days referred to in Section 167(2) of the Criminal Procedure Code, 1973 - which by virtue of Section 20 of the Terrorists and Disruptive Activities (Prevention) Act, 1987, is to be read as 60 days in this case cannot be disputed. There must, of course, be sufficient grounds for such a change of custody. In the present case, having regard to the nature of offence and the stage of the investigations it cannot be said that grounds for such custody do not exist.

5. As to the safety of the person of the accused during police custody is concerned, Shri D. Ram Reddy, the Investigating Officer who is present in Court, says that he undertakes before and assures the Court that during the period of police custody no physical harm would ever be caused to the accused and that he would ensure that no illegal methods of interrogation would be resorted to either at his instance or at the instance of anybody else. As a further precaution, we also provide that Shri Barala Kishna Rao counsel of the accused be entitled to visit the place of detention once in the morning and once again in the night every day during the period of the police custody and if the counsel discovers evidence of any mal-treatment, he shall be entitled to require the District Medical Officer to examine Ashok Reddy forthwith and make a report. The District Medical Officer of the District shall be required to act forthwith on any request made to him by the said Shri Barala Kishna Rao.

6. Accordingly, while dismissing this writ petition and restoring the order of the Designated Court subject to the aforesaid conditions, we direct that Ashok Reddy shall now be handed over from judicial custody to police custody on the 5th August, 1992 for a period of three days, i.e. , from 5th to 7th August, 1992 (both days inclusive) and that Ashok Reddy shall be restored to judicial custody on the morning of 8th August, 1992. Ordered accordingly.