
(2004) 12 AP CK 0056
In the Andhra Pradesh High Court
Case No : Writ Petition No. 21050 of 2004

M. Muni Reddy

APPELLANT

Vs

Collector and District Magistrate and Others

RESPONDENT

Date of Decision : 08-12-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107

Citation : (2005) 1 ALD 192 : (2005) 1 ALD(Cri) 192 : (2005) 2 ALT 142

Hon'ble Judges : S.R.K. Prasad, J; Bilal Nazki, J

Bench : Division Bench

Advocate : C. Praveen Kumar, for the Appellant; A.G., for the Respondent

Final Decision : Allowed

Judgement

Bilal Nazki, J.—Heard learned Counsel for the parties.

2. This is a writ petition filed, seeking release of Sri S. Thirupal Reddy, detained in Central Prison, Cherlapalli on orders of the District Collector, Ananthapur, passed under the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (hereinafter referred to as "the Act"). Counter has been filed.

3. This case speaks of volumes about the method in which the Collectors and District Magistrates are handling issues relating to the liberties of people. We have seen in most of the cases, matters are treated in a very casual manner and it appears that the detaining authorities are either not applying mind or they are simply not aware of the importance of liberty of a human being. The order is passed in this case by the District Magistrate on 20-9-2004. Grounds of detention are also framed on the same day.

4. There are four instances given, which pertain to the cases registered against the detenu. First case relates to the year 1989 in which the detenu had been acquitted on 30-12-2002. Second case relates to an offence registered in 1996

and the third case relates to 2003. Fourth case was registered in the year 2004 u/s 107 of the Criminal Procedure Code (hereinafter referred to as "Cr.P.C."). The District Magistrate was satisfied that the detenu was a Goonda within the meaning of the Act therefore, he passed the order of detention.

5. It is already held by this Court that if a person is not accused of having committed offences as a habitual offender under Chapters 16, 17 and 22 of Cr.P.C, he cannot be termed as Goonda. It is also settled by this Court that in terms of the Act, the grounds of detention are not separable therefore, if one ground is found invalid, the detention cannot be sustained. Even then, a ground was shown that the detenu was involved in a matter u/s 107 Cr.P.C. On the basis of these four grounds, the District Magistrate recorded his satisfaction and passed the order of detention, but barely 5 days after, served another set of grounds of detention termed as "Additional grounds of detention" on 25-9-2004 on the detenu. Obviously when the order of detention was passed, these grounds of detention were not available with the detaining authority. It appears that after the person was detained, the District Magistrate found that the material/grounds collected by him and served on the detenu were not sufficient therefore, after detaining the person and putting him behind the bars, an exercise was made afresh to locate for grounds of detention. As a matter of fact, order of detention was passed in advance of consideration of material. Had this material been available at the time of recording satisfaction, then the necessity of serving additional grounds after five days would not arise. These matters need to be corrected. Therefore, while setting aside the order of detention and allowing this Writ Petition, we also direct payment of costs of Rs. 5,000/-(Five thousand) towards the detenu for wrongfully confining him. The detenu shall be released forthwith if not needed in any other case.