

(1998) 04 AP CK 0064
In the Andhra Pradesh High Court
Case No : W.P.No. 9782 of 1998

Shaik Lal Bee

APPELLANT

Vs

Government of A.P. and Others

RESPONDENT

Date of Decision : 27-04-1998

Acts Referred:

Andhra Pradesh of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 — Section 11, 2, 3
Constitution of India, 1950 — Article 14
Maintenance of Internal Security Act, 1971 — Section 3(1)
Penal Code, 1860 (IPC) — Section 147, 148, 149, 302, 307

Citation : (1998) 4 ALD 283 : (1998) 4 ALT 178

Hon'ble Judges : Vaman Rao, J; N.Y. Hanumanthappa, J

Bench : Division Bench

Advocate : Mr. Tamada Gopalakrishna, for the Appellant; Additional Advocate General, for the Respondent

Judgement

N.Y. Hanumanthappa, J.—Heard both sides.

2. The petitioners, one Smt. Shaik Lal Bee, has filed this writ petition seeking for quashing of order of detention passed by the District Collector and District Magistrate, Nalgonda dated 8-10-1977 u/s 3(2) of the Andhra Pradesh Prevention of Dangerous-Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short "the Act"), as confirmed by the State of Andhra Pradesh in G.O.Rt.No.6187, dated 3-12-1997, detaining the petitioners' son by name Shaik Kasim, son of Madar Sab on the ground that he acted in a manner prejudicial to the maintenance of public order.

3. According to the petitioner, the alleged detenu is a law abiding citizen and at no time he has committed any act which had disturbed the public order, and the cases which were filed against him ended in acquittal and that the order of detention is made with a mala fide intention. The order of detention passed on irrelevant and stale grounds cannot be sustained. The cases referred to in the

grounds, which were filed against the son of the petitioner, were in fact ended in acquittal and the same could not have been the basis for passing the detention order. The authorities failed to know the effect of acquittal in passing the detention order and to what extent the preventive detention law can be invoked in such circumstances. It is also contended that the order of detention is not in accordance with the provisions of the Act, particularly the petitioner's son cannot be said as Goonda as defined u/s 2(g) of the Act warranting the circumstances to pass the detention order. According to the learned Counsel for the petitioner, the order under challenge is the result of non-application of mind on the part of the authorities. The order of detention was made in order to subvert the order passed by the learned Sessions Judge, Nalgonda before whom the alleged detenu was the accused in Crime No.60/97 for the offences punishable under Sections 147, 148, 302, 307 I.P.C. read with 149 I.P.C. on the file of Munagala Police Station, wherein the alleged detenu obtained bail. It is also contended that preventive detention is an extraordinary remedy and any order of detention passed should stand to reason and the absence of honest opinion formed by the authorities concerned renders the order invalid. Sri Gopalakrishna Tamada, learned Counsel for the petitioner, lastly submits that the order of detention is bad and since the detenu was illegally detained he is entitled for payment of compensation. To support his contention, he placed reliance on the decisions of the Supreme Court in Rudul Sah Vs. State of Bihar and Another, and Bhim Singh, MLA Vs. State of Jammu & Kashmir and Others, .

4. On the other hand, Smt. K. Vijayalakshmi, learned Government Pleader, supported the order of detention. Her first contention is that the order of detention is the result of application of mind and the same cannot be interfered with by this Court. When once the authority forms an opinion on the material made available before it and passes an order of detention, the same does not deserve to be interfered with unless it is shown that the decision arrived by such authority is not the result of subjective satisfaction but is passed on extraneous considerations or it is based on no evidence. According to her, among all the grounds, even if few grounds are irrelevant or stale or non-existent, the detention order can be upheld if the remaining grounds suggest invoking of preventive law and the order of detention can be passed as has been done in the instant case. The grounds on which the detention order is passed are relevant and certain. Mere discharge or acquittal for want of evidence in a criminal case will not prevent the authority from initiating preventive detention proceedings as the purposes of punitive proceedings and preventive proceedings are quite different. She further submitted that the act of the detenu alongwith others is so serious which disturbed even the tempo of life in the locality, and that is why the authority was right in initiating preventive detention proceedings. At the time of passing the detention order the authority was not aware of alleged detenu obtaining bail and soon after the authorities came to know that the detenu had obtained bail, the concerned police filed application before the Sessions Judge, Nalgonda to cancel the bail already granted and accordingly the bail was

cancelled. She lastly contended that the order of detention in question was passed with a bona fide intention to stop the alleged detenu from continuing his tendency of disturbing the public order and even the tempo of life.

5. After hearing both sides and going through the records, we feel that it is proper to bear in mind some of the basic principles to be followed while passing orders of detention. The purposes of the punitive law and preventive law are quite different. The preventive law is to stop the tendency of a citizen in resorting to continue the same activity which may disturb the peace and tranquility. The Supreme Court dealing with the provisions of Maintenance of Internal Security Act, 1971 had laid down the distinction between preventive detention and punitive detention in *Haradhan Saha Vs. The State of West Bengal and Others*, , holding as follows:

"The power of preventive detention is qualitatively different from punitive detention. The power of preventive detention is a precautionary power exercised in reasonable anticipation. It may or may not relate to an offence. It is not a parallel proceeding. It does not overlap with prosecution even if it relies on certain facts for which prosecution may be launched or may have been launched. An order of preventive detention may be made before or during prosecution. An order of preventive detention may be made with or without prosecution and in anticipation or after discharge or even acquittal. The pendency of prosecution is no bar to an order of preventive detention. An order of preventive detention is also not a bar to prosecution.

Article 14 is inapplicable because preventive detention and prosecution are not synonymous. The purposes are different. The authorities are different. The nature of proceedings is different. In a prosecution an accused is sought to be punished for a past act. In preventive detention, the past act is merely the material for inference about the future course of probable conduct on the part of the detenu."

The purpose of invoking preventive law is explained by the Supreme Court in *Bhut Nath Mete Vs. The State of West Bengal*, as follows:

"However, detention power cannot be quietly used to subvert, supplant or to substitute the punitive law. To detain a person after a Court has held the charge false is to expose oneself to the criticism of absence of due care and of rational material for subjective satisfaction. After all, the responsible officer, aware of the value of civil liberty even for undesirable persons, must make a credible prediction of the species of prejudicial activity in Section 3(1) before shutting up a person."

What is public order and what is law and order and when it can be said that it disturbed even the public order and tempo of life have been laid down by the Supreme Court in number of cases right from *Dr. Ram Manohar Lohia Vs. State of Bihar and Others*, . The distinction between public order and law and order has been laid down by the Supreme Court in *Arun Ghosh Vs. State of West Bengal*,

as follows :

"Public order embraces more of the community than law and order. Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquility. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of law and order."

The Supreme Court in *Golam Hussain alias Gama Vs. The Commissioner of Police Calcutta and Others*, held as follows:

"Merely because the grounds of detention have been the subject-matter of criminal cases which have ended in discharge, it cannot be said that the order of detention is mala fide. The basic imperative of proof beyond reasonable doubt does not apply to the "subjective satisfaction" component of imprisonment for reasons of internal security.

There may be cases where a Court has held a criminal case to be false and a detaining authority with that judicial pronouncement before him may not reasonably claim to be satisfied about prospective prejudicial activities based on what a Court has found to be baseless. But a case where the order of discharge is made purely for want of evidence on the score that witnesses were too afraid to depose against a desperate character cannot come under this exceptional category."

The Supreme Court further observed as follows:

"Shri Chatterjee took up the further position that the detention in the case on hand was founded on prevention of public disorder while the acts imputed to the petitioner ex facie were aimed at a particular person, and not the public generally. Lohia's case (supra) and other rulings were said to reinforce this stance. The law is plain and the decided cases are concordant. A criminal act hitting a private target such as indecent assault of a woman or slapping a neighbour or knocking down a pedestrian while driving, may not shake up public order. But a drunk with a drawn knife chasing a woman in a public street and all women running in panic, a Hindu or Muslim in a crowded place at a time of communal tension throwing a bomb at a personal enemy of the other religion and the people, all scared, fleeing the area, a striking worker armed with a dagger stabbing a blackleg during a bitter strike spreading terror - these are invasions of public order although the motivation may be against a particular private individual. The nature of the act, the circumstances of its commission, the impact on people around and such like factors constitute the pathology of public disorder. We cannot isolate the act from its public setting or analyse its molecules as in a laboratory but take its total effect on the flow of orderly life. It may be a question of the degree and quality of the activity, of the sensitivity of the situation and the psychic response of the involved people. To dissect further

is to defeat the purpose of social defence which is the paramount purpose of preventive detention."

In *Ram Ranjan Chatterjee Vs. The State of West Bengal*, , the Supreme Court discussing the distinction between "public order" and "law and order" held as follows :

"It may be remembered that qualitatively, the acts which affect "law and order" are not different from the acts which affect "public order". Indeed, a state of peace or orderly tranquility which prevails as a result of the observance or enforcement of internal laws and regulations by the Government, is a feature common to the concepts of "law and order" and "public order".

The distinction between the areas of "law and order" and "public order" is one of degree and extent of the reach of the act in question on society. It is the potentiality of the act to disturb the even temp of the life of the community which makes it prejudicial to the maintenance of public order. If the contravention in its effect is confined only to a few individuals directly involved as distinguished from a wide spectrum of the public, it would raise a problem of law and order only. These concentric concepts of "law and order" and "public order" may have a common "epicentre", but it is the length, magnitude and intensity of the terror wave unleashed by a particular eruption of disorder that helps distinguish it as an act affecting "public order" from that concerning "law and order".

In the instant case, exploding of bombs in thickly populated area, extortion of grocery on pain of instant death from a grocer of the locality which caused his customers to flee from the shop had a nexus with disturbance of public order in the locality. The terro-tremors generated by these acts prejudicially affected the general people of the localities. Thus the grounds of detention had a direct nexus with the object sought to be achieved by the detention order."

In *Jaya Mala Vs. Home Secretary, Government of Jammu and Kashmir and Others*, , the Supreme Court has laid down the guidelines when the preventive detention can be exercised. It reads:

"It cannot be said that power under the preventive detention law cannot be exercised where a criminal conduct which could not be easily prevented, checked or thwarted, would not provide a ground sufficient for detention under the preventive detention laws. But it is equally important to bear in mind that every minor infraction of law cannot be upgraded to the height of an activity prejudicial to the maintenance of public order. If every infraction of law having a penal sanction by itself is a ground for detention danger looms large that the normal criminal trials, and criminal Courts set up for administering justice will be substituted by detention laws often described as lawless law."

In *Sadhu v. State of West Bengal* AIR 1975 SC 919, the Supreme Court dealing with the aspect of subjective satisfaction of the authority passing the detention

order held as follows:

"Although the circumstances of each case ultimately demarcate the callous or colourable exercise of power from the activist or alert application of the executive's mind in making the impugned order, some clear guidelines, though overlapping, help application of the law :

1. The discharge or acquittal by a criminal Court is not necessarily a bar to preventive detention on the same facts for "security" purposes. But if such discharge or acquittal proceeds on the footing that the charge is false or baseless preventive detention on the same condemned facts may be vulnerable on the ground that the power under the Maintenance of Internal Security Act has been exercised in a mala fide or colourable manner.
2. The executive authority may act on subjective satisfaction and is immunised from judicial dissection of the sufficiency of the materials.
3. The satisfaction, though attenuated by "subjectivity" must be real and rational, not random divination, must flow from an advertence to relevant factors, not be a mock recital or mechanical chant of statutorily sanctified phrases.
4. The executive conclusion regarding futuristic prejudicial activities of the detenu and its nexus with his past conduct is acceptable but not invulnerable. The Court can lift the verbal veil to discover the true face.
5. One test to check upon the colourable nature or mindless mood of the alleged satisfaction of the authority is to see if the articulated "grounds" are too groundless to induce credence in any reasonable man or too frivolous to be brushed aside as fictitious by a responsible instrumentality. The Court must see through mere sleights of mind played by the detaining authority.
6. More concretely, if witnesses are frightened off by a desperate criminal, the Court may discharge for deficient evidence but on being convinced (on police or other materials coming within his ken) that witnesses had been scared of testifying, the District Magistrate may still invoke his preventive power to protect society.
7. But if on a rational or fair consideration of the police version or probative circumstances he would or should necessarily have rejected it, the routinisation of the satisfaction, couched in correct diction, cannot carry conviction about its reality or fidelity, as against factitious terminological conformity. And on a charge of mala fides or misuse of power being made, the Court can go behind the facade and reach at the factum," (Para 10)

In Khudiram Das Vs. The State of West Bengal and Others, , the Supreme Court further held as follows:

"The power of detention is clearly a preventive power. It does not partake in any manner of the nature of punishment.

The power of detention is not a quasi-judicial power. But the subjective satisfaction of the detaining authority is not wholly immune from judicial review ability. The Courts have by judicial decisions carved out an area, limited though it be, within which the validity of the subjective satisfaction can yet be subjected to judicial scrutiny. The basic postulate on which the Courts have proceeded is that the subjective satisfaction being a condition precedent for the exercise of the power conferred on the executive, the Court can always examine whether the requisite satisfaction is arrived at by the authority; if it is not, the condition precedent to the exercise of the power would not be fulfilled and the exercise of the power would be bad. (Paras 8 and 9)."

The Supreme Court dealing with the grounds for quashing the order of detention in *Abdul Gaffer Vs. State of West Bengal*, , held as follows :

"Where the preventive detention is ordered on the grounds which are already the subject matter of criminal cases the Court has to see whether a certain incident related to law and order or public order. Further, the Court has to see whether the power has been exercised by the authority concerned while ordering preventive detention in a colourable manner as a cloak for subverting the process of criminal law and irksome Court procedure.""

In *Dulal Roy Vs. The District Magistrate, Burdwan and Others*, , the Supreme Court held as follows:

"The order of detention is liable to be quashed if the power exercised is nothing but colourable exercise of jurisdiction."

In *Dwarka Dass Bhatia Vs. The State of Jammu and Kashmir*, the Supreme Court held that any order should be preceded by subjective satisfaction; the opinion formed should be honest and not for extraneous purpose; it shall be free from mala fides and it should speak about rationale behind passing the order; at the first look itself it should look reasonable; and there should be application of mind to all the relevant factors. In *A.K. Roy and Others Vs. Union of India (UOI) and Others*, , the Supreme Court explained vividly the entire law on preventive detention right from the time of forming opinion, what procedure to be followed, the duty of the authority to pass the order of detention, what shall be test of satisfaction to order detention, and till the completion of the period of detention what procedure to be followed.

6. In the light of the principles laid down by the Supreme Court in the above decisions, we have to examine whether the grounds mentioned in the order of detention do suggest the existence of disturbance of public order and law and order. The grounds mentioned in the detention order read as follows:

"1. On 27-2-88 at Narsimhulagudem village yourself and 31 of your associates have formed into an unlawful assembly armed with deadly weapons and attacked on your rival Mudireddy Adi Reddy and others and attempted to kill them by inflicting injuries and a case in Cr.No. 18/88 under Sections 147, 148, 307, 324

IPC read with 149 IPC was registered against you and others at Munagala PS. The case ended in acquittal on 12-11-90 vide SC No.237/88.

2. On 15-12-90 at Narsimhulagudem village yourself and 41 others of your associates have formed into an unlawful assembly armed with deadly weapons and gun, and caused injuries to Mudireddy Narsi Reddy and 7 others and attempted to kill them and a case in Cr.No. 126/88 u/s 148, 307, 324 IPC read with 149 IPC Section 27 of I.A. Act was registered at Munagala PS and it was ended in acquittal on 27-2-97 at Additional Sessions Court, Nalgonda vide SC No. 12/92.

3. On 15-12-90 at Nasimhulagudem village yourself and 41 others of your associates have formed into an unlawful assembly armed with deadly weapons and gun and killed Shaik Ameer Sab (CPI-M) with gun and also attempted to kill others by inflicting injuries and a case in Cr.No. 127/90 u/s 147, 148, 302, 307 IPC read with 149 IPC Section 27 of I.A. Act was registered at Munagala PS and it was ended in acquittal on 27-2-97 vide SC No, 12/92 at Additional Sessions Court, Nalgonda.

4. On 29-4-97 at 1130 hours yourself and 8 others of your associates have attacked on Mudireddy Adi Reddy (CPI-M) armed with knives and axes and killed him at Moddulacheruvu bus stage and also attempted to kill Kuncham Narsaiah by inflicting injuries and a case in Cr.No.60/97 u/s 147, 148, 302, 307 IPC read with 149 IPC was registered at Munagala PS. You were arrested and sent for judicial remand. Case is under investigation."

It is also mentioned in the grounds of detention that the authority has reliable information that the alleged detenu along with a follower is still planning to attack and eliminate his rival. According to the authorities, the alleged detenu is a "Goonda" causing panick and disturbing the public order in the village in question. But the circumstances explained and the grounds mentioned in the order cannot be brought within the ambit of disturbance of public order. The authority has invoked the provisions of Sections of the Act. Section 2(a) of the Act defined the phrase "acting in any manner prejudicial to the maintenance of public order" as follows:

"acting in any manner prejudicial to the maintenance of public order" means when a boot-legger, a dacoit, a goonda, an immoral traffic offender or a land-grabber is engaged or is making preparations for engaging, in any of his activities as such, which affect adversely, or are likely to affect adversely, the maintenance of public order."

The phrase "acting in any manner prejudicial to the maintenance of public order" has been explained by a Division Bench of this Court in B. Vijaya Kumar Vs. Secretary to Government, Government of Andhra Pradesh and Others, as follows:

"The phrase "acting in any manner prejudicial to the maintenance of public order" takes in its fold the activity of a boot-legger, a dacoit, a drug-offender or a

land grabber, who is engaged or is making preparation for engaging any of its activities as such which affect adversely or likely to affect adversely the maintenance of public order. The explanation appended to the above definition clarifies that for the purpose of clause 2(a), "public order" shall be deemed to have been affected adversely, inter alia, if any of the activities of any person referred to in the said clause, directly or indirectly, is causing or calculated to cause any harm, danger or alarm or a feeling of insecurity among the general public or any section thereof or a grave or widespread danger to life or public health.

Even a single activity of a person referred to in clause 2(a) would have the effect of acting in any manner prejudicial to the maintenance of public order. Even a single activity which falls within clause 2(a) would be enough to bring the case within the ambit of Section 3(1) of the Act."

Section 2(g) of the Act defines "Goonda" as follows:

"" "goonda" means a person, who either by himself or as a member of or leader of a gang, habitually commits, or attempts to commit or abets the commission of offences punishable under Chapter XVI or Chapter XVII or Chapter XXII of the Indian Penal Code."

Section 3 of the Act gives power to the authorities to pass detention order which is extracted hereunder:

"3. Power to make orders detaining certain persons :--(1) The Government may, if satisfied with respect to any bootlegger, dacoit, drug-offender, goonda, immoral traffic offender or land-grabber that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, it is necessary so to do, make an order directing that such person be detained."

7. The normal tests under which the correctness or otherwise of the preventive detention order have to be examined are that whether there exists any proximity, whether the grounds are specific, whether they are relevant and whether there was any application of mind on the part of the authorities in passing the order of detention, and that the acts referred tend to disturb or in the nature of disturbing the public order etc. The proximity test though normally being invited to consider the correctness or otherwise of the detention order, but it can be said that there is no rigid mechanical rule. As such the proximity test shall be applied strictly as held by the Supreme Court in the case of Gora Vs. State of West Bengal, , wherein the Supreme Court while dealing with Section 3(3) of the Maintenance of Internal Security Act (1971) held as follows:

"The test of proximity is not a rigid or mechanical test to be blindly applied by merely counting the number of months between the offending acts and the order of detention. It is a subsidiary test evolved by the Court for the purpose of determining the main question whether the past activities of the detenu is such that from it a reasonable progress can be made as to the future conduct of the

detenu and its utility, therefore, lies only in so far as it subserved that purpose and it cannot be allowed to dominate or drown it. The prejudicial act of the detenu may in a given case be of such a character as to suggest that it is a part of an organised operation of a complex of agencies collaborating to clandestinely and secretly carry on such activities and in such a case the detaining authority, may reasonably feel satisfied that the prejudicial act of the detenu which has come to light cannot be a solitary or isolated act, but must be part of a course of conduct of such or similar activities clandestinely or secretly carried on by the detenu and it is, therefore, necessary to detain him with a view to preventing him from indulging in such activities in the future."

8. Apart from explaining what is meant by public order or otherwise in the Act 1 of 1986, what is the public order and what is the law and order and when it can be said that the even tempo of life has been disturbed etc., the Supreme Court laid down in the case of Ram Manohar Lohia, (supra) wherein the majority view of the Supreme Court is as follows :

"Per Sarkar, J. : It is commonplace that words in a statutory provision take their meaning from the context in which they are used. In the case of detention under Rule 30(1)(b), the context is the emergent situation created by external aggression. It would, therefore, be legitimate to hold that by maintenance of public order what was meant was prevention of disorder of a grave nature, a disorder which the authorities thought was necessary to prevent in view of the emergent situation. It is conceivable that the expression "maintenance of law and order"" occurring in a detention order under Rule 30(1)(b) may not have been used in the sense of prevention of disorder of a grave nature. The expression may mean prevention of disorder of comparatively lesser gravity and of local significance only."

Per Hidayatulla and Bachawat, JJ : The contravention of law always affects order but before it can be said to affect public order, it must affect the community or the public at large. A mere disturbance of law and order leading to disorder is thus not necessarily sufficient for action under the Defence of India Act but disturbance which subvert the public order are. A District Magistrate is entitled to take action under Rule 30(1)(b) to prevent subversion of public order but not in aid of maintenance of law and order under ordinary circumstances."

Deprivation of personal liberty is not for the reason that the person's presence of his activities tend to disturb "law and order" but it shall be only when it disturbed the "public order". In other words, no action becomes one as affecting "public order" unless it affects the even tempo of public life, the life of the community, even though it may create a situation of "law and order". A Division Bench of this Court while dealing with what is "public order" and what is "law and order" in Nalli Sanyasi Naidu and Another Vs. Maharaja Alka Narayana Society of Arts and Sciences (MANSAS) and Others, , relying upon the various decisions of the Supreme Court observed as follows:

"The principle laid down in the judgments of the Supreme Court shows that there are three circles one within each other : The law and order represents the largest circle, the next circle represents public order and the smallest circle represents the security of the State; and whether law and order is affected or public order is affected or security of the State is affected has to be decided as per the facts and circumstances of each case. There is vast distinction between public order and law and order. Every incident of law and order cannot be said to be incident of public order. Therefore, the Court has to decide taking the facts and circumstances of each case whether there is threat to maintenance of public order or not."

9. On the points of staleness, vagueness, proximity, non-application of mind, the effect of pending of criminal cases before other Court and whether the inclusion of an irrelevant ground vitiates the entire order of detention, and when there shall be a detention, the Supreme Court and other Courts including this Court rendered number of decisions, and a few among them are as follows : Shibban Lal Saxena Vs. The State of Uttar Pradesh and Others, , Shiv Prasad Bhatnagar Vs. State of M.P. and Another, , Pushkar Mukherjee and Others Vs. The State of West Bengal, and A. Raja Reddy v. Collector and District Magistrate 1996 (4) ALD 1154.

10. In Shibban Lal's case, (supra) the Supreme Court observed that if the grounds of detention are more than one, and one or two grounds are stale, vague or irrelevant or not amounting to disturbance of public order, then the entire order of detention shall have to be declared as illegal. The relevant portion is extracted hereunder:

"Where however the Government itself while confirming the detention in exercise of its power u/s 11 admits that one of the two grounds mentioned in the original order is unsubstantial or nonexistent, to say that the other ground, which still remains, is quite sufficient to sustain the order would be to substitute an objective judicial test for the subjective decision of the executive authority which is against the legislative policy underlying the statute. In such cases, the position would be the same as if one of these two grounds was irrelevant for the purpose of the Act or was wholly illusory and this would vitiate the detention order as a whole."

In Shiv Prasad's case, (supra) "the Supreme Court held that" "grounds of detention must be pertinent and not irrelevant, proximate and not stale, precise and not vague. Irrelevance, staleness and vagueness are vices, any single one of which is sufficient to vitiate a ground of detention. And a single vicious ground is sufficient to vitiate an order of detention." In Mukherjee 's case, (supra) the Supreme Court while explaining the scope of public order held that the detention can be ordered to prevent subversion of "public order", but not in aid of maintenance of "law and order". It also held that if one of the grounds are extremely vague and not giving sufficient particulars, the same shall not be basis for detention. In Raja Reddy 's case, (supra) a Division Bench of this Court while

dealing with the effect of a criminal case wherein the detenu was involved, held as follows:

"A.P. Prevention of Dangerous Activities of Boot-leggers, Dacoits, Drug-offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 - Section 3(2) - Detaining authority reciting in its order three criminal cases in which the detenu is said to be involved - Cases relate to the period of 3 to 9 years prior to the date of order -No rational connection with the conclusion that the detention was necessary for maintenance of public order - Detention not valid."

11. The idea in imposing a restriction that the detaining authority should be careful and cautious in invoking preventive detention provisions, is only to explain that the citizen's personal liberty has been placed at a very high pedestal in our Constitution as explained by the Supreme Court in the case of Mohd. Subrati alias Mohd. Karim Vs. State of West Bengal, , wherein the Supreme Court held as follows:

"It must be remembered that the personal liberty of the individual has been given an honoured place in the fundamental rights which our Constitution has jealously protected against illegal and arbitrary deprivation and that this Court has been entrusted with a duty and invested with a power to enforce that fundamental right.""

In the case of Moganti Srihari Rao, (supra), the Division Bench of this Court while referring to the right of "personal liberty" observed as follows:

"In a constitutional Democratic Republic, where life and liberty of the citizens are guaranteed as one of the Fundamental Rights, the Court has to always regard personal liberty as the most precious possession of the citizen's and whenever any order of illegal detention is brought to the notice of the Court, it has to be scrutinised with utmost care and the case has to be decided with utmost top priority. In this context, it is relevant to quote the observations of Bhagwati, J., in Smt. Icchu Devi Choraria Vs. Union of India (UOI) and Others, :

".... The Court has always regarded personal liberty as the most precious possession of making and refused to tolerate illegal detention, regardless of the social cost involved in the release of a possible renegade. This is an area where the Court has been most strict and scrupulous in ensuring observance with the requirements of law, and even where a requirement of the law is breached in the slightest measure, the Court has not hesitated to strike down the order of detention...."

. . . . personal liberty of a citizen is sacrosanct and the approach to the curtailment of the personal liberty is an idealistic one, as the loss of personal liberty deprives a man of all that is worth living for a builds up deep resentments. Therefore, the Courts have to scrutinize the cases giving paramount importance to the personal liberty."

12. On an examination of the order of detention in the instant case with

reference to the above cited Supreme Court decisions, the only inference that can be drawn is that the order of detention is the result of non-application of mind to the provisions of the Act- For the aforesaid reasons the order of detention is liable to be quashed and it is accordingly quashed.

13. Since it is observed that the citizen's personal liberty is very precious and the same shall have to be safeguarded at any cost and as it is found that the detention of the alleged detenu is bad, the alleged detenu is entitled for compensation. This view of ours is supported by the decisions of the Supreme Court in Rudul Sah's case (supra) and Bhim Singh's case (supra).

14. In the result, the writ petition is allowed and the impugned order of detention, dated 8-10-1997 passed by the District Magistrate, Nalgonda, as confirmed by the Government in its order dated 3-12-1997, is quashed. The respondents are directed to set at liberty the detenu viz., Shaik Kasim, son of Madar Sab, who is now detained in Central Prison, Warangal, forthwith. We feel that justice will be met if a sum of Rs.10,000/- is ordered to be paid as compensation to the detenu by the Government within two months from the date of receipt of a copy of this order, and we accordingly order the same. No costs.