

IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD

THE HON'BLE MR. JUSTICE P. SAM KOSHY , THE HON'BLE MR. JUSTICE N.
TUKARAMJI

WP NO.21912 OF 2024

26.09.2024

Smt. T. Ramadevi, W/o.T. Srinivas Goud

... *Petitioner*

v.

The State of Telangana, rep. by its Principal Secretary and Others ... *Respondent*

Constitution of India — Article 22(2) — 24-hour rule for production from initial apprehension — TSPDFE Act does not override constitutional mandate — Non-production within 24 hours renders detention illegal — Accused held beyond permissible time ordered released; others produced in time remain in valid custody.

Code of Criminal Procedure, 1973 — Production before Magistrate within 24 hours from initial apprehension — Habeas Corpus remedy if detainees are overheld — §. 57 prohibits detention beyond twenty-four hours without remand — §. 167(1) requires judicial scrutiny if investigation is incomplete — TSPDFE Act does not supersede these procedures — Accused detained beyond permissible limit ordered released; those produced in time remain in custody.

Code of Criminal Procedure, 1898 — Arrest and Detention — Equivalent to §§. 56, 57 of the 1973 Code — Mandatory production before Magistrate within twenty-four hours of apprehension — Delay without Magistrate's order is illegal — Detention beyond permissible period held void; those produced in time remain in custody.

Telangana Protection of Depositors of Financial Establishments Act, 1996 (TSPDFE Act) — Writ of Habeas Corpus — Constitution of Special Court (Ss.6(1) & 6(2)) — 24-hour rule computed from initial apprehension — 'May' in §. 13(1) preserves normal Cr.P.C. procedure — TSPDFE Act does not override Article 22(2) or Cr.P.C. safeguards — Nearest Judicial Magistrate can exercise remand jurisdiction — Detention beyond 24 hours illegal; Accused Nos.3 and 4 released.

N.D.P.S. Act — Offences under N.D.P.S. Act are cognizable — Arrest without warrant upheld — 'Detention in custody for interrogation' is unknown to law — If a suspect is compelled to remain, it amounts to arrest — Article 22(2) of Constitution and §§. 57 & 167 Cr.P.C. strictly apply — Failure to produce within 24 hours violates legal mandates.

Indian Penal Code, 1860 — Wrongful confinement — Offences under §§. 406, 420 read with 120B — Detention beyond 24 hours without producing the accused before Magistrate contravenes Article 22(2) and Cr.P.C. — TSPDFE Act does not displace these safeguards — Merely retaining custody without formal arrest is impermissible — Unlawful detention amounts to

wrongful confinement under §. 340; accused held beyond permissible time ordered released.

FACTS. Several individuals were allegedly apprehended under the TSPDFE Act and other penal provisions. The petitioner filed a second Writ Petition seeking a Habeas Corpus order, asserting that the authorities unlawfully detained certain accused and failed to produce them before the Magistrate within 24 hours. In one instance, the detainees were reportedly held for 38 hours. The petitioner also contends that the first remand should have been before a special Court notified under the TSPDFE Act rather than a Judicial Magistrate. An earlier writ petition was disposed of upon official arrest statements, and the present challenge focuses on the legality of detention and compliance with mandatory procedural safeguards.

PRAYER. The present is a second writ petition seeking for issuance of a Writ of Habeas Corpus by the same petitioner, and by way of the present writ petition the petitioner herein seeks for production of the four detenus viz., Thallapally Srinivas Goud, Thallapally Sai Sharath, Thallapally Sai Rohith and Palavalasa Siva Saran.

ISSUES OF LAW.

Whether the 24-hour rule for producing an accused commences upon initial apprehension or formal arrest; Whether suspects can be held for interrogation without formal arrest; Whether the TSPDFE Act displaces the Cr.P.C. requirement to present arrestees before a Magistrate within 24 hours; Whether an accused under the TSPDFE Act must be produced exclusively before a special Court or if the nearest Judicial Magistrate can exercise initial remand jurisdiction.

SUMMARY. Multiple individuals were arrested under allegations involving the TSPDFE Act and associated legal provisions. The petitioner filed this second Habeas Corpus Writ Petition, alleging that certain accused persons were detained for more than 24 hours before being officially shown as arrested, thereby contravening Article 22(2) of the Constitution and Sections 57 and 167 of the Cr.P.C. The Court examined whether the TSPDFE Act excludes the requirement of presenting detainees before a Magistrate within 24 hours and if remand should occur before a special Court. Concluding that the TSPDFE Act does not supersede constitutional and statutory safeguards, the Court ordered the release of those held beyond 24 hours and dismissed the appeals of those produced within time.

HELD. The Court concluded that the TSPDFE Act does not displace the constitutional and statutory mandate to produce detainees before the nearest Magistrate within 24 hours, counting from the time of initial apprehension. Accused Nos.3 and 4, held beyond this limit, were released, whereas the others, produced in time, remained in custody.

FINAL STATUS. Partly allowed.

CASES REFERRED

Ashak Hussain Allah Detha @ Siddique and Another vs The Assistant Collector of

Customs (P) Bombay and Another [1990 SCC OnLineBom 3]
Dinesh Chandra Pandey vs High Court of Madhya Pradesh [2010 (11) SCC 500]
Mohan Singh vs International Airport Authority of India [1997 (9) SCC 132]
Mrs. Iqbal Kaur Kwatra vs The Dist. General of Police, Rajasthan State, Jaipur
[1996 (1) A.P.L.J. 370 (HC)]
Nabachandra vs Manipur Administration [AIR 1964 Manipur 39]
R. v. Lemsatef [1977 (2) All E.R. 835]
Sarla Goel vs Kishan Chand [2009 (7) SCC 658]
State vs Ram Autar Chaudhry [AIR 1955 Allahabad 138]
Vishal Manohar Mandrekar vs The State of Telangana [Order dated 29.02.2024 in
Criminal Revision Case No.228 of 2024]

COUNSELS

Mr. Yemmiganur Soma Srinath Reddy (for Petitioner)
Mr. Swaroop Oorilla (for Respondents)

Judgment Pronounced on 26.09.2024