

Bam Bam Singh Vs. State of Bihar and ors.

Bam Bam Singh Vs. State of Bihar and ors.

SooperKanoon Citation : sooperkanoon.com/128983

Court : Patna

Decided On : Sep-19-2005

Judge : V.N. Sinha, J.

Acts : Bihar Control of Crime Act, 1981 - Sections 2, 12(2) and 17; [Constitution of India](#) - Article 22; [Indian Penal Code \(IPC\), 1860](#)

Appeal No. : Cr. W.J.C. No. 397 of 2005

Appellant : Bam Bam Singh

Respondent : State of Bihar and ors.

Advocate for Def. : Amar Nath Singh, S.C. 8

Advocate for Pet/Ap. : Pramod Kumar Singh, Adv.

Disposition : Application dismissed

Judgement :

V.N. Sinha, J.

1. Heard learned counsel for the petitioner and the State.

2. Petitioner has filed this writ application for issue of writ in the nature of Habeas Corpus commanding the respondents to release the petitioner forthwith as also to quash the order dated 30.12.2004, Annexure-2 to this application where-under he

has been detained by the respondent District Magistrate by resorting to the powers contained in Sub-section (2) of Section 12 of the Bihar Control of Crime Act, 1981 (hereinafter referred to as 'the Act'). He has also questioned the validity of the order-dated 8.1.2005, as contained in Home (Police) Department Memo. No. 66 dated 8.1.2005, Annexure-4 whereunder his detention has been approved by the State Government.

3. Aforesaid reliefs have been prayed for on the ground that the representation of the petitioner dated 5.5.2005, Annexure-5, addressed to the District Magistrate, Begusarai, was not disposed of with due expedition. It has been further submitted, with reference to the grounds of detention, contained in order dated 31.12.2004, Annexure-3, that the petitioner is not an anti social element within the meaning of Sub-clause (d) of Section 2 of the Act as petitioner is not habitually committing offences punishable under Chapter XVI or XVII of the Indian Penal Code, as from perusal of the order dated 31.12.2004 it would appear that the petitioner committed offence under Chapter XVI and XVII of the Indian Penal Code in the year 2001, 2002 and 2004, but did not commit any such offence in the year 2003 and thus according to the learned counsel for the petitioner it cannot be said that petitioner is habitually committing offences under Chapter XVI and XVII of the Indian Penal Code.

4. In support of the first submission that for the failure of the State Government to dispose of the representation of the petitioner expeditiously, his continued detention under the two impugned orders is violative of Sub-clause (5) of Article 22 of the [Constitution of India](#) and Section 17 of the Act, it was submitted that representation dated 5.5.2005, Annexure-5 was not disposed of until filing of the writ petition on 15.7.2005 and on that ground alone the detention and the confirmation orders, Annexures-2 and 4 should be set aside.

5. On the other hand, learned counsel for the State contended, with reference to the order dated 31.12.2004, Annexure-3, that perusal of the said order itself would indicate that the petitioner is an anti social element who is continuously involved in extortion cases and the detaining authority being satisfied that petitioner is an anti social element within the meaning of Sub-clause (d) of Section 2 of the Act has

proceeded to detain him, which fact is crystal clear from a bare perusal of the order dated 31.12.2004, Annexure-3 that the petitioner is habitual offender of the offence enumerated under Chapter XVI and XVII of the Indian Penal Code.

6. In regard to the second submission of the learned counsel for the petitioner that the representation of the petitioner dated 5.5.2005, Annexure-5 was not disposed of expeditiously, learned counsel for the State, with reference to the averments made in paragraph 8 of the counter affidavit, affirmed on behalf of respondents 1 and 2 by Sri Adalat Singh, Deputy Secretary, Home (Police) Department of the State Government, has submitted that the petitioner did not file any representation dated 5.5.2005, Annexure-5. He filed representation dated 20.6.2005, which was sent to the State Government by the Superintendent of the District Jail, Begusarai under letter No. 1116 dated 20.6.2005 and was received by the State Government on 24.6.2005. The said representation was addressed to the District Magistrate, Begusarai and accordingly was referred back to the District Magistrate under Letter No. 6349 dated 28.6.2005 to seek his comments. The District Magistrate, Begusarai submitted his comments under Letter No. 1227 dated 30.6.2005, which was received by the State Government on 4.7.2005. Thereafter, the representation was dealt with by the Section Officer, Deputy Secretary, Home Secretary and Advisor to the State Government and finally by the State Government on 9.7.2005 and was rejected. The rejection was communicated to the petitioner under Memo. No. 6840 dated 12.7.2005. In support of the aforesaid submission the letter of the Superintendent of District Jail, Begusarai and the copy of the representation dated 20.6.2005 along with the orders of the State Government communicating the rejection to the petitioner dated 12.7.2005 have been enclosed as Annexures- A, B and C to the counter affidavit.

7. Having considered the case of the petitioner and the State Government, we are satisfied that the petitioner is an anti social element as he is alleged to be involved in various extortion cases, as it appears from the grounds of detention contained in order dated 31.12.2004, Annexure-3. We are also satisfied that against his detention, petitioner filed his representation dated 20.6.2005, which was considered and disposed of by the State Government expeditiously and the rejection order was communicated to him under Memo No. 6840 dated 12.7.2005,

Annexure-B to the counter affidavit of the State Government.

8. In view of the discussions made above, the two submissions raised by the petitioner have got no merit and this application is, accordingly, dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com