

Krishna Kanta Vs. the State

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Court : Guwahati

Decided On : Sep-04-1952

Judge : Ram Labhaya, Ag. C.J.

Acts : [Preventive Detention Act, 1950](#) - Sections 3, 7 and 11

Appeal No. : Criminal Misc. Case No. 25 of 1952

Appellant : Krishna Kanta

Respondent : The State

Advocate for Def. : D.N. Medhi, Govt. Adv.

Advocate for Pet/Ap. : J.C. Sen, Adv.

Disposition : Petition dismissed

Judgement :

Ram Labhaya, Ag. C.J.

1. Krishna Kanta Bagh, petitioner was detained under the Preventive Detention Act of 1950, as amended by Act 4 of 1951, by the order of the District Magistrate, Nowgong, dated 8-8-1951. He has challenged the validity of his detention, by a petition to this Court.

2. The grounds of detention supplied to the petitioner were as follows :

1. That you have been doing smuggling business in rice and paddy from the cordoned area (Hojai, Kampur, and Jamunamukh) of Nowgong District since the beginning of 1951, with the active help of your associate Biswanath Agarwalla. For this purpose, you have engaged labourers on high wages who carry rice and paddy from the cordoned area and sell the same at a much higher rate.

2. That on 31-5-51, you were detected while transporting one maund of rice without permit from the cordoned area and though the case is sub judice, yet you have not been corrected.

3. That on 16-6-51 it is reported you transported some rice to outside the cordoned area.

4. That on 14-7-51 you transported 5 maunds of rice from the cordoned area to Salona Bazar.

5. That on 17-7-51, 5 maunds of rice were carried out of the cordoned area by your labourers but they did not mention the names Of their masters.

6. It is reliably informed that you with your associate (Biswanath Agarwalla) remove rice and paddy from the cordoned area through the jungles with the help of your men and sell the same at a high rate.

3. The learned counsel for the petitioner has first contended that the statement contained in ground No. 2 that on the date of the order there was a case pending against the petitioner for illicit transport of a maund of rice from the cordoned area, is not correct. No such case was at all pending.

4. It is beyond the province of this Court to enter into the question whether the statements of fact made in the grounds supplied to the petitioner are true or not. It is a matter for the consideration of the Advisory Board. The learned counsel contended in the alternative that if any case was pending then, as held in-- 'Labaram Deka v. State', AIR 1951 Assam 43, the order of detention would be improper. That case is distinguishable and is of no assistance to the learned counsel. In that case, the petitioners were already in detention. This fact was overlooked. Besides, there was the fact that the only ground which formed the

basis of detention formed the subject-matter of a case that was sub judice. The detention could be justified only on that ground. The situation is very different in this case. Here the petitioner was not already in detention, nor is the detention order based only on the statement contained in ground No. 2. On the other hand, it is obvious that the learned District Magistrate merely referred to the case alleged to have been sub judice in May 1951, to bring out that, according to his information, the petitioner was an incorrigible smuggler, as his smuggling activities had continued even in June and July 1951. He gave the dates in June and July, 1951 on which the petitioner was believed to have smuggled rice out of the cordoned area. The order of detention does not rest on ground No. 2 alone; the detention, therefore, cannot be held to be illegal even if there was any case pending against the petitioner arising out of any one transaction.

5. The third contention raised is that the Detention Act of 1950, as amended by the Detention Act 4 of 1951, expired on 1-4-1952. The petitioner's detention after that date is illegal. This contention also has no force. The effect of Section 2, Preventive Detention (Amendment) Act, 1952, is that the life of the principal Act was extended to 1-10-1952. The period of petitioner's detention was thus automatically extended up to that date. His detention till the expiry of the Act would be legal though the Government can revoke or modify the order of detention.

6. The last contention is that the order of confirmation under Section 11 of the Preventive Detention Act should have been communicated to the petitioner. In support of this contention, reliance has been placed on--'Makhan Singh v. State of Punjab', AIR 1952 SC 27. The learned counsel has referred to some observations of the learned Chief Justice of the Supreme Court contained in the last paragraph of the judgment in that case. I do not find anything therein which supports the contention of the learned counsel. The question whether it is obligatory on the part of the appropriate Government to communicate the order of confirmation to the person detained, did not arise and was not decided in that case at all, and I do not find anything in the language of Section 11 which would justify the view that it is an essential pre-requisite to the validity of the detention order that it should be communicated to the petitioner. Section 11 lays down that the appropriate Government may confirm the detention order where the Advisory Board has

reported that there is sufficient cause for detention and continue the detention for such period as it thinks fit. The contention is repelled.

7. The validity of detention in this case is not assailable on any valid ground. The petition fails and is dismissed. The Rule is discharged.

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