

Edal Singh Vs. State of Uttar Pradesh

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Court : Allahabad

Decided On : Aug-06-1962

Reported in : 1963CriLJ201

Judge : P. Mukerji and ;S.C. Manchanda, JJ.

Appellant : Edal Singh

Respondent : State of Uttar Pradesh

Judgement :

P. Mukerji, J.

1. This is a petition under Art. 226 of the Constitution by Edal Singh with a prayer that a Writ of mandamus commanding the respondents be issued to the effect that the respondents would not awake the petitioner at night or otherwise disturb his sleep nor would they re-quire the petitioner to furnish information about his intended movements. There was also a prayer for issuing such ether orders or directions as this Court may consider necessary. An interim prayer was also made in terms in which the substantial prayer was asked for.

2. The facts on which the petitioner claimed the writ were that the petitioner was a respectable citizen, a Bhumidar of 250 big has of agricultural land. The petitioner further said that he had been elected a Panch of the Panchayati Adalat and that the police got annoyed with him and therefore opened a history sheet and under

the garb of having opened a history sheet they not only secretly watch the petitioner's movement but they awake him at night and place restrictions on the free movements of the petitioner asking the petitioner to report his movements at the police station.

3. It was clear from the petitioner's own case that he has had at least two convictions -- one was for extortion and unlawful confinement and another for an offence punishable under Section 19(f) of the Arms Act.. it is also clear that a history sheet of the petitioner was first opened in the year 1950, although after 1952 his movements were not watched. Since 1956 the petitioner's movements have again been watched by the police, it is this action of the police that has led the petitioner to come to this Court for relief. The petition with which we are concerned was filed in this Court on the 3rd February 1958 almost two years since petitioner's surveillance commenced.

The allegations which the petitioner made have been controverted on behalf of the respondents by .Anand Sarup Tyagi, who was the Station Officer of Police Station Kalan ' where the petitioner resides. Anand Sarup Tyagi's affidavit clearly shows that the petitioner's allegations that he was awakened at night and that he had to report his movements to the police were unfounded. The position, therefore, was that the petitioner's movements were being watched by the police since he had been a history sheeteer of Class b. The question that was raised was that there was no power in the police to open a history sheet or to watch the movements, even though secretly, of a citizen. Learned Counsel appearing for Edal Singh did not contend that by merely opening a history sheet and keeping a secret watch .on the movements of a citizen any of the guarantees contained in Art. 19 of the Constitution was specifically infringed. There can be no doubt that for security purposes it was necessary to keep a watch on the rough and tumble of society and such action if taken in accordance with some direction having the force of law could be justified on the ground that such restrictions were reasonable restrictions which could legitimately be Imposed on the personal [freedoms of a citizen.

4. This matter can be looked at from another point of view and it is this the petitioner has come to this Court to ask for a relief which was entirely

discretionary; in granting a discretionary relief this Court always takes into consideration the fact whether by refusing such relief any real injustice is likely to occur. Further, whether by granting the relief there was going to be more harm than by refusing it. As we have said earlier, in the interest of the community it was necessary to keep a watch on the movements of such citizens as may become a source of danger to the community and therefore if we are likely to interfere with the action of the police which action was in consonance with the powers conferred on the Police by the Police Regulation then we would in fact be putting in jeopardy the safety of the community at large in the locality where such undesirable citizens may be residing.

5. Learned Counsel drew our attention to a decision by Beg, J. in *Ram Sarup v. Ram Narain*, : AIR1962 All216 where Beg, J. set aside an order in regard to surveillance because he held on the facts of that particular case that the opening of a history sheet had been made in opposition to what was provided for in Police Regulations. in the instant case we are faced with' no such situation. The order opening a history sheet was perfectly in accordance with the provisions of the Police Regulations dealing with History Sheets and surveillance.

6. For the reasons given above we have seen no reason to interfere in this matter by issuing a writ of mandamus, particularly when we find that the action complained of was taken more than 5 years back and for all we know there may be nothing now going on in respect of the surveillance of the petitioner which could provide even small reason to him to make a grievance. The petition is accordingly dismissed.