

Panna Lal Vs. State

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Court : Delhi

Decided On : Jul-31-1985

Reported in : 1985(9)DRJ253

Judge : N.N. Goswamy and; Charanjit Talwar, JJ.

Acts : [National Security Act, 1980](#) - Sections 3; ;Arms Act

Appeal No. : Criminal Writ Appeal No. 55 of 1985

Appellant : Panna Lal

Respondent : State

Advocate for Def. : Mr. M.K. Gupta

Advocate for Pet/Ap. : M.K. Gupta, Adv

Judgement :

Charanjit Talwar, J.

(1) Panna Lal, a detenu under the [National Security Act, 1980](#), has challenged the legality of the order passed on 19th December, 1984, by Shri S.S. Jog, Commissioner of Police, Delhi, in exercise of powers under Sub-section (2) of Section 3 of the Act. The order was passed by the said Commissioner of being satisfied that the detention of the petitioner was necessary with a view to

preventing him from acting in a manner prejudicial to the maintenance of public order.

(2) The petitioner was detained on 20th December, 1984, in pursuance of the detention order. He was supplied with the grounds of detention on 23rd December, 1984.

(3) In the petition various grounds have been raised. However, in the view which we are taking it is not necessary to deal with each of them as we are of the opinion that none of the grounds of detention is connected with maintenance of public order.

(4) It is stated in the grounds of detention that the petitioner is an active had character of police station Kashmere Gate, Delhi, who indulges in cases of breach of peace and offences punishable under the Arms Act which cases, according to the detaining authority are prejudicial to the maintenance of public order. The cases enumerated in the grounds show that seven out of the nine cases were registered against the detenu under Sections 25/54/59 of the Arms Act. In each of the said case the allegation was that on being apprehended by a police party, who were on patrol duty, on his personal search, a knife was recovered from his possession. In the first case he was convicted and sentenced to undergo three month's rigorous imprisonment ; in the second case he- was sentenced to one month's rigorous imprisonment while in the third case he was acquitted. The cases mentioned at Seriall numbers 4 to 7 are pending trial. By way of illustration we may quote ground number 1, which is similar in terms in all the said seven cases, to show that the allegations contained in those seven cases relate to maintenance of law and order :

'FIRNo. 583 dated 13-11-78 under Section 25/54/59 Arms Act, P.S. Kashmere Gate, Delhi. S.I. Laxman Singh of P.S. Kashmere Gate, Delhi, while on patrolling duty received an information that Panna Lal standing at Tonga Stand was in possession of a knife. Oi this a raid was formed and Panna Lal was apprehended. During his personal search a Chhura (kirpan Numa) was recovered from the right side pocket of his pant. He was arrested and after completion of investigation, the case was challaned in the court where he was convicted to undergo 3 months R.I.

by the court of Sh. V.B. Gupta, M.M. Delhi, on 27-4-79. A copy of the Fir is annexed as Annexure.'.

(5) Mr. M.K. Gupta, learned counsel for the respondents, relies on ground number 8 and 9 in support of the contention that these two grounds positively related to or are connected with the maintenance of public order. The said grounds read as under :

'8.D.D. No. 14-A dated 1-8-84 under Section 107/151, Cr. P.C. P.S. Kashmere Gate, Delhi. S.I. Mahinder Singh Rathi of P.S. Kashmere Gate, Delhi, on 1-8-84, while returning from patrolling duty along with staff found Panna Lal alias Panna threatening the public in the area of Mori Gate. The S.I. tried to pacify him but he did not stop his threats. Founding (finding) no other alternative, the S.I. arrested him under Section 107/151 Cr. P.C. as there was imminent danger of breach of peace at the hands of the said Panna Lal. A Kalandra (complaint) was prepared and sent to the Court, which is pending trial in the Court of Sh. Hari Dev, S.D.M. A copy of the O.D. entry is annexed as Annexure VIII. 9 D.D. No. 19-A dated 11-11-84 under Section 107/151 Cr. P.C., P.S. Kashmere Gate, Delhi. On 11-11-84 S.I. Mohinder Singh Rathi of P.S. Kashmere Gate, Delhi, along with other staff while patrolling in the area of Kucha Mohtar Khan, Mori Gate, Delhi, found a quarrel taking place in the area. When he reached the spot he found that Panna Lal was threatening the public to the effect that if any one informed the police about him, he would liquidate him. The residents of the Mohalla were excited on account of this and there was apprehension of breach of peace at the hands of the said Panna Lal. The S.I. tried to pacify the accused, but in vain. Left with no other alternative, the S.I. arrested him under Section 107/151 Cr. P.C. A kalandra (complaint) was prepared and sent to the court of Sh. Hari Dev, S.D.M., Delhi, which is pending trial. A copy of the D.D. is annexed as Annexure IX.'

A bare perusal of the said two grounds shows only that the petitioner is a quarrelsome person. He is not said to have wielded a knife in any public place or has threatened to cause any injury to any one with a knife.

(6) The distinction between 'public sector' and 'law and order' is well-settled. (See Arun Ghosh v. State of West Bengal, : 1970 CriLJ1136). 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. In the present case we find that disturbance, if any, caused by the petitioner amounts only to breach of law and order.

(7) In the result, the petition is allowed. The detention order is set aside. The rule is made absolute. We direct that the petitioner Panna Lal alias Patina son of Shri Ram Kishan be set at liberty forthwith unless required to be detained under any other valid order passed by a Court or an authority.

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