

Mohd. YasIn Vs. Union of India

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Court : Delhi

Decided On : Apr-23-1997

Reported in : 1997IVAD(Delhi)603; 1997CriLJ4169; 68(1997)DLT179; 1997(42)DRJ116

Judge : Mahinder Narain, A.C.J. and; S.K. Mahajan, J.

Acts : [Customs Act, 1962](#) - Sections 132

Appeal No. : Criminal Writ Petition No. 718 of 1996

Appellant : Mohd. Yasin

Respondent : Union of India

Advocate for Pet/Ap. : Naveen Malhotra,; B. Babbar,; Pratigya Gihar,;

Judgement :

Mahinder Narain, A.C.J.

(1) MOHD. Yasin travelled by Pakistan Airways Flight No. PK-270 from Lahore and Delhi on 20.4.1996. At the Indira Gandhi International Airport at New Delhi, he went through red channel and declared some goods as dutiable goods. As the custom officials were suspicious, they examined the baggage and found that 18 pair of 'Chappals' which had been brought by Mohd. Yasin had unusual weight. On further examination it was found that the heels instead of being solid, had cavities

therein, and in the cavities 73 pieces of gold were discovered. The baggage was examined and 8 gold pieces of 10 toles were discovered. The total gold discovered was 1.632 kgs in weight.

(2) On the happening of the aforesaid events, Mohd. Yasin was arrested and charged under the Customs Act with offences under Sections 132 and 135(1)(a) of the [Customs Act, 1962](#). On 16.7.1996, the Additional Chief Metropolitan Magistrate permitted him to be released on bail on a bail bond of Rs. 1.5 lacs. As he could not furnish the bail bond, he remained in judicial custody.

(3) On 9.8.1996, order of detention was served on the petitioner Mohd. Yasin.

(4) On 3.9.1996 representation against the order of detention was made by the petitioner to the detaining authorities. Another representation against the order of detention was made on 23.9.1996 to the detaining authorities, with a request to forward the same to the Central Government as the previous representation had not been forwarded to the Central Government.

(5) The representation was received by the detaining authority on 25.9.1996.

(6) The matter of detention of Mohd. Yasin also came up before the Advisory Board on 25.9.1996 and on 16.10.1996 the detention of Mohd. Yasin was confirmed by the Advisory Board.

(7) The representation which Mohd. Yasin made on 23.9.1996, was considered on 19.11.1996 by the Lt. Governor, and on 18.11.1996 the representation was considered by the Central Government and both the representations were rejected.

(8) The case which has been urged before us by Mr. Naveen Malhotra on behalf of the petitioner Mohd. Yasin, is that there is unexplained and unreasonable delay in considering the representations by the detaining authority and the Central Government. The contention in regard thereto is mentioned in grounds (O) and (P) of the writ petition.

(9) In essence, what is urged is that there is unexplained delay in considering the representations made by the petitioner between 23.9.1996 and 19-11-1996, Urdu language, translated into English language. Translation was made available to the detaining authority on 6.11.1996, and thereafter it was considered on 19.11.1996.

(10) Before us it is urged that there is no Explanationn, whatsoever, as to why the representation could not be translated between 23.9.1996 and 6.11.1996, and there is absolutely no Explanationn for this delay.

(11) Counsel for the petitioner has relied upon a judgment of the Supreme Court reported as Jt 1996(2) Sc 532 (Kundanbhai Dulabhai Shaikh v. Distt. Magistrate, Ahmedabad & Ors.), in which case the detention order which was under the provisions of the Black Marketing & Maintenance of Supplies of Essential Commodities Act, 1980, was set aside on the ground of six days' delay after comments of the State Government relating to the detention of the petitioner in that case has been received. The Supreme Court had not accepted the contention raised by the detaining authority that the representation of the petitioner therein was placed in the queue, and was awaiting decision. The Supreme Court was of the view that 'in case of preventive detention the chronology must be broken as soon as a representation is ready for disposal'.

(12) In this case we are of the view that the counter-affidavit which has been filed by the respondent is lacking by way of Explanationn as to why delay has occurred in translation of a two page representation in Urdu script. How could it have taken almost 43 days to translate two page Urdu script representation It would not have taken anybody who is proficient in Urdu language, more than an hour to translate two page representation into a language which the detaining authority could understand.

(13) Here the delay of 43 days is a long delay, and in view of the fact that it is unexplained delay, the detention of the petitioner has to be quashed. So ordered.

(14) The petitioner be released forthwith from detention if not required in any other case.