

Hari Datta Vs. the District Magistrate and Suprintendent

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Court : Rajasthan

Decided On : Jan-20-1949

Reported in : 1950CriLJ227

Judge : Ramabhadran, C.J.

Appellant : Hari Datta

Respondent : The District Magistrate and Suprintendent

Judgement :

ORDER

Ramabhadran, C.J.

1. This is an application in the nature of habeas corpus Under Section 491, Criminal P.C.
2. The petitioner, Hari Datta, was arrested under Section. 3, Punjab Public Safety Act, as applied to Ajmer. Merwara, under the orders of the Adl ditional District Magistrate. He was ordered to be detained in custody for a month. That period has expired and the Provincial Government acting Under Section 3 (4), has directed his detention in custody until further orders.
3. Mr. B. D. Sharma for the petitioner urged that the arrest and detention of the petitioner were illegal as the Additional District Magistrate had no authority to act Under Section 3, Punjab Public Safety Act. It was argued that it was only the

Provincial Government or the District Magistrate who could have acted Under Section 8. Reliance was placed on *Prabhu Lal v. Emperor* A.I.R. (31) 1944 Nag. 84 : 45 or. h. 3. 296 wherein it was held that an Additional District Magistrate may have all the powers of the District Magistrate, but that would not make him a District Magistrate, in as much as, there can be only one District Magistrate. The above ruling was with reference to Rule 26, Defence of India Rules, wherein an order of detention had been passed by the Additional District Magistrate of Raipur. Their Lordships of the Nagpur High Court found that under b, 26, only the Central and Provincial Governments had authority to discharge special functions created by the Act. The powers of the Provincial Government had been delegated to the District Magistrate and not to the Additional District Magistrate. They, therefore, held that Section 10 (2), Criminal P.C. could not come to the help of the Additional District Magistrate and directed the detenu to be released. Here the position is different. Section 3, Punjab Public Safety Act authorizes the Provincial Government, the District Magistrate or any servant of the Crown empowered in this behalf by the former to arrest and detain any persons, if satisfied, that Such a course was necessary to prevent him from acting in a manner prejudicial to the public safety or the maintenance of the public order. It is significant that in addition to the District Magistrate, the section clearly contemplates that any other servant of the Crown may be authorized in this behalf by the Provincial Government, Notification No, 6654283, dated 27th April 1926 issued by the Chief Commissioner, Ajmer-Merwara, confers on the Additional District Magistrate, Ajmer-Merwara, all the powers of the District Magistrate Under Section 10 (2), Criminal P.C. A later Notification no. A/21-18, dated 6th September 1945 further confers on the Additional District Magistrate all the powers of the District Magistrate under any other law for the time being in force, unless specifically provided otherwise by such law.

4. As already pointed out, Section 8, Punjab Public Safety Act contemplates the conferment of powers on officers other than the District Magistrate; therefore, I would hold that the Additional District Magistrate was duly authorized to Act Under Section 3.

5. A copy of the order passed by the Additional District Magistrate on 8th December 1948 directing the arrest of the petitioner has been shown to me. Therein the Additional District Magistrate has stated that he was satisfied that it was necessary to arrest the petitioner to prevent him from acting in a manner prejudicial to the public safety. Grounds have been given for coming to this conclusion. I am not sitting as a Court of appeal, therefore, I am not called upon to express my opinion, whether the grounds were sufficient or not. Suffice it to say that the Additional District Magistrate has acted in accordance with Section 8 and therefore the arrest and detention of the petitioner cannot be said to be illegal.

6. Mr. B. D. Sharma next argued that the Ajmer-Merwara Extension of Laws Act, 1947, was ultra vires of the Dominion Legislature, since S, 2 thereof, empowers the Central Government to extend to Ajmer-Merwara the provisions of any act in force in any other province. Mr. Sharma's argument was that this amounted to a delegation of Legislative powers to the Central Government. I do not think this argument is valid. All that the Central Government was empowered was to extend to Ajmer Merwara a law already in force elsewhere. If any new legislation has to be introduced in Ajmer-Merwara (not already in force in other provinces) then of course it is only the Central Legislature that could pass the necessary legislation. If learned Counsel's argument is accepted, it would mean that the Dominion Legislature would have to meet every time it was considered necessary to extend to Ajmer-Merwara, legislation already in force elsewhere. In my opinion such an inference is unwarranted.

7. The result is, the petition fails and is hereby dismissed.