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Abdul Rahim Vs. the State

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Court : Rajasthan

Decided On : Apr-06-1951

Reported in : AIR1952Raj33

Judge : Wanchoo, C.J. and; Nawal Kishore, J.

Acts : Constitution of India - Article 166; Preventive Detention Act, 1950 - Sections 3

Appeal No. : Criminal Misc. Petn. No. 4 of 1951

Appellant : Abdul Rahim

Respondent : The State

Advocate for Def. : Sumer Dan, Adv. for;Govt. Adv.

Advocate for Pet/Ap. : Abdul Jalil, Adv.

Disposition : Petition dismissed

Judgement :

Nawal Kishore, J.

1. This is a petition by Abdul Rahim, son of Himmat Khan, Singh Muslim of village Bandasar, under Article 226 of the Constitution of India & Section 491, Criminal P. C., for the issue of a writ of 'habeas corpus', & is based on the following three

principal grounds:

(1) That on 10/11-1-1951, an order was issued by the Govt. of Rajasthan for the arrest & detention of one Shri Adring, son of Himta, under Section 3, Preventive Detention Act, 1950, for a period of one year, & was served upon the petitioner on 16-1-1951. Inasmuch as the order related to one Adring & the petitioner's name was Abdul Rahim, it had no connection with him, & accordingly the petitioner's detention was illegal.

(2) That the order of detention was not in accordance with law, inasmuch as it had not been expressly passed in the name of His Highness the Rajpramukh as required by Article 166 of the Constitution, & had been simplysigned by the Home Secretary.

(3) That the grounds of detention supplied to the petitioner were very vague, incomplete, & insufficient, &, therefore, the petitioner had been deprived of his right of making an effective representation to the Govt.

2. A copy of this petition was forwarded to the Govt. of Rajasthan for a reply, & it is stated that the petitioner also bore the name of Adring (Adrim), & being the son of Himta, Musalman of village Bandasar, Tahsil Sheo, was the same person for whose arrest & detention the order had been issued by the Govt. In support of this a reference has been made to the fact that the petitioner acknowledged the service of the order of detention on him under his signature as 'Adrim.' The grounds of detention had also been received by him under the same signature. Copies of the order & the grounds of detention have been filed along with the reply, & thereafter the learned Public Prosecutor has placed on the record the originals. It is further stated that the order if detention was in proper form & according to law, inasmuch as it has been expressed to have been made in the name of His Highness the Rajpramukh, & has been duly authenticated by the signature of the Home Secretary to the Govt. As regards the grounds of detention being vague, incomplete, & insufficient, it is stated that the petitioner had already submitted his representation, & that all the necessary particulars, which would enable him to do so, were contained in the grounds supplied to him, & accordingly he had not been deprived of an opportunity of making an effective representation.

3. We have heard the learned counsel for the petitioner at length, & have no hesitation in rejecting this petition. So far as the first ground relating to a mistake in the identity of the petitioner is concerned, the learned counsel, after perusing the reply furnished by the Govt. of Rajasthan & the acknowledgments made by the petitioner under his signature as 'Adrim', deemed it fit not to press it. On the other question whether the order of detention was not in accordance with law, all that has been submitted is that it should have been expressly in the name of His Highness the Rajpramukh. There seems to be no doubt that according to Article 166 of the Constitution, the order should have been issued in the name of His Highness the Rajpramukh, but we consider that the defect in this case, if any. Is of a highly technical character, inasmuch as above the signature of the Home Secretary to the Govt. of Rajasthan it is explicitly mentioned that the order had been issued by His Highness the Rajpramukh. In other words it may be taken to have been made in the name of His Highness the Rajpramukh, & this has been authenticated by the signature of the Home Secretary to the Govt. of Rajasthan.

4. So far as the last ground is concerned, the learned counsel has in substance urged that although the order of detention contained as many as eight grounds & referred to the manifold activities of the petitioner, it was vague & indefinite,, inasmuch as the particular, dates & places where these activities had been carried on by him had not been specifically set out. As stated above, the order of detention describes in considerable detail the various forms of activities imputed to the petitioner. For instance, it was mentioned that he was an associate of one Syed Shah Murad of Pakistan, who was convening meetings on the Indo-Pakistan border for the purpose of instigating border Muslims against Hindus, & was accordingly in league with him, & helping him by conveying information about military & police dispositions for the purpose of committing dacoities. There is a reference particularly to a dacoity having been committed in the Indian territory on the border near Gadra Road when 35 head of catties had been removed, & it was mentioned that the petitioner being in close contact with the raiders in Pakistan territory had offered to recover the cattle from Pakistan if the owners paid a ransom of Rs. 600/-. This amount was later raised to Rs. 1,000/-. After these grounds had been furnished to the petitioner he put forward a detailed representation in which he practically denied all the allegations referred to above.

The learned counsel urges that inasmuch as it was not mentioned in the grounds to whom information about military & police dispositions on the Indian side of the border had been conveyed, & how & on what dates she had instigated Syed shah Murad to commit dacoities in Indian territories, the petitioner had been labouring under a serious handicap, & therefore, had not been able to make a proper representation to the Govt.

5. There is, however, no substance in this contention. It appears from the representation itself that the petitioner had no misgiving with regard to the nature of the allegations contained in the various grounds supplied to him, nor was he labouring under any kind of handicap only because the dates were missing from those grounds. Reference may, in particular, be made in this connection to para. No. 11(e) of his representation where he stated that on the occasion when 35 heads of cattle were taken by Pakistani raiders about a year back, he had gone out of station & was not near Gadra Road. From this alone it appears that the ground put forward is merely an excuse, & altogether without substance. The learned counsel has cited a few authorities, but none of these is in point for the purpose of enabling this Court to hold that if the dates relating to the various activities mentioned in the grounds supplied to the petitioner are missing, the grounds must be held to be vague & indefinite. 'Durgadas v. Rex', AIR (36) 1949 All 148, a Full Bench judgment of that Court, does not, support the contention of the learned counsel. All that was held there was that the question had to be decided upon the basis of the particulars supplied in each case, & that the grounds & particulars supplied must convey sufficient information to the detenue to enable him to make a representation that the detaining authority was wrong in its belief that his detention was necessary in the interest of public safety. This authority was referred to in 'Haqiqatullah Khan v. The State', 1950 Raj LW 204, a Division Bench Judgment of this Court, & discussed at length, but further reference to it is not necessary, as the point raised by the learned counsel was not gone into. The learned counsel next referred to 'Kasturchand v. Sarkar', 1950 Raj LW 37 (45), which held that the ground of detention was not communicated to the detenue within a week &was; vague & indefinite. The only ground mentioned was that the petitioner was an active communist & as an agitator had been fomenting & organising industrial strikes. This ground was held to be vague & indefinite, as

neither the place or places where the detenue had fomented or organized industrial strikes, nor the names of the industries he wanted to be hit by his agitation , nor yet the dates on which this had been done, were indicated in the grounds supplied to him. That case, in our opinion, is distinguishable, inasmuch as a complete picture of the various activities carried on by the detenue was not presented in such great detail us has been done in this case. Whether reference to the dates of these activities is necessary in order that the grounds may cease to be vague & indefinite would, as held in AIR (36) 1949 All 148, always depend upon the facts of each case & the nature of the grounds supplied to the detenue. In the case before us, we are of the view that the grounds are sufficiently detailed & contain a narration of the various activities with which the petitioner was connected. Not only this; there is a definite reference to a particular raid in which 35 heads of cattle had been removed by a gang of Syed Shah Murad, & the petitioner appears to have known very well of the occasion on which this raid had taken place, inasmuch as he has furnished a reply to this allegation in the representation made by him to the Govt. In the circumstances, it is not possible to hold in this case that the grounds of detention supplied to the petitioner were vague, indefinite or insufficient for the purpose of enabling him to make an effective representation to the Govt.

6. The petition fails & is hereby dismissed.

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