

**Moolsingh and anr. Vs. the State**

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**SooperKanoon Citation :** [sooperkanoon.com/753174](http://sooperkanoon.com/753174)

**Court :** Rajasthan

**Decided On :** Dec-09-1957

**Reported in :** AIR1958Raj158; 1958CriLJ962

**Judge :** K.N. Wanchoo, C.J. and; I.N. Modi, J.

**Acts :** [Constitution of India](#) - Article 22, 22(5)

**Appeal No. :** Criminal Misc. Appln. No. 106 of 1957

**Appellant :** Moolsingh and anr.

**Respondent :** The State

**Advocate for Def. :** Deputy Govt. Adv.

**Advocate for Pet/Ap. :** J.G. Chhangani, Adv.

**Disposition :** Application dismissed

**Judgement :**

**I.N. Modi, J.**

1. This is an application by Moolsingh and Sajjansingh under Article 226 of the Constitution and Section 491 of the Code of Criminal Procedure for a writ in the nature of habeas corpus praying that the petitioners be set at liberty.

2. The petitioners were detained under Section 3 (2) of the Preventive Detention Act by an order of the District Magistrate, Jaisalmer, dated 8th August, 1957. The petitioners were supplied with the grounds of their detention by the Magistrate on the same date.

They have now come up to this Court challenging the validity of their detention. Their main contention is that the grounds of detention furnished to them are irrelevant and too vague to enable them to make, an effective and proper representation under Article 22(5) of the Constitution.

3. Petitioner Moolsingh was supplied fifteen grounds for his detention and the petitioner Sajjansingh was supplied as many as sixteen. We have perused these grounds. The principal reason, which seems to have satisfied the District Magistrate that the detention of the petitioners was necessary for the maintenance of public order, was that they were hand in glove with the dacoits Kishansingh, Madho-singh and Vijaysingh and their gang, and they had been aiding and instigating these dacoits in the commission of heinous and violent crimes, owing to which the villagers in the neighbouring villages were terror-stricken and felt compelled to submit to the unlawful threats of these gangsters and the petitioners, and that the latter were providing them with food, shelter, clothing, ammunition in addition to news about the movements of the police.

Although this appears to us to be the main case against the petitioners, the District Magistrate has mentioned the grounds under as many as 15 paragraphs in Moolsingh's case, and 16 in Sajjansingh's. Many of these so-called grounds are common to both the petitioners.

These are grounds Nos. 1, 2, 3 and 4 in both sets of grounds, and grounds Nos. 6, 10, 13, 14 and 35 of the grounds supplied to Moolsingh are identical with grounds Nos. 5, 12, 14, 15 and 16 respectively of the grounds supplied to Sajjansingh. We consider it unnecessary to state all these grounds in extenso for the purposes of the present case, and shall refer to just those of them against which objections have-been taken before us.

4. In the first place, grounds Nos. 1 and 2 have been challenged as being utterly vague and irrelevant. These grounds are common to both the petitioners. The first ground says that the activities of the notorious gang headed by proclaimed dacoits Kishan Singh, Madhosingh and Vijay Singh and others have been responsible for several brutal murders, extortions, kidnappings and abductions of innocent victims.

Then the second ground is to the effect that the petitioners Moolsingh and Sajjansingh were working as the closest associates of the aforementioned gang and dacoits, and that they had constantly supplied the gang with foodstuffs, clothing, shelter and ammunition at secret places and that they have been supplying information to the dacoits regarding rich persons and have been helping and instigating the dacoits to commit dacoities and kidnappings.

The contention is that these paragraphs are much too general and extremely vague and do not give any particulars of the various crimes, and the dates of the various activities referred to therein, and it is, therefore, contended that the petitioners' right to make an effective representation against their detention which has been vouchsafed to them under the Constitution has been infringed,

We have carefully considered this argument, and are of opinion that these are really introductory paragraphs and that these two paragraphs should be read together, and though they have been put as separate grounds, that has been done only in a loose sort of way, and the real grounds have been furnished in the paragraphs following.

5. The same kind of objection is taken to paragraph No. 4 in both sets of grounds, which is to the effect that the petitioners were agents of the dacoits to procure money and make forcible collections and contributions in cash and kind to help the dacoits. This so-called ground also, in our opinion, should be read with the paragraphs which follow it.

Thus in ground No. 5 of the grounds furnished to Moolsingh, it is mentioned that he went to the house of one Raghunath son of Moti Bishnoi of Newa on Baisakh Vadi 14 in the year 1956, and demanded a sum of Rs. 500/- for dacoit Kishan Singh. Raghunath said that he had no money to pay, and so he was compelled to

dispose of his cattle under threat of dire consequences.

Raghunath then collected Rs. 200/- with difficulty and handed them over to Moolsingh with a promise to pay the rest after some time. Again in para 6 of the grounds supplied to Moolsingh and para 8 of those supplied to Sajjansingh, it is mentioned that while dacoits Kishen Singh' and Madhosingh had camped on Sawan Vadi 3 in the year 1956 at a sand dune at the border of village Chinu, they sent for one Latif son of Satar Muslim Fakir Sarpanch of Chinu, and compelled him to pay cash and supply goods from his village.

It was further mentioned that while Latif was in the company of the dacoits, the petitioners had gone to them and informed that the police at the outpost Newa had come to know of their presence, and thereupon the dacoits immediately left the place and left a severe warning to Latif that he should supply money and goats to the petitioners.

Thereafter the petitioners are alleged to have come to Chinu with Latif, and the latter out of fear of the dacoits collected a sum of Rs. 1000/- and handed over the same to the petitioners. Several other instances of exaction of money or cattle are mentioned in the subsequent paragraphs of both sets of grounds supplied to the petitioners, and we are unable to hold that ground No. 4 really lacks in particulars or that it is vague.

6 We are also satisfied that paras 3, 7,8, 9, 11, 12, 13, 14 and 15 of the grounds supplied to Moolsingh and Paras 3, 5, 6, 7, 8,9, 10, 11, 13, 14, 15 and 16 of the grounds supplied to Sajjansingh are fairly definite and give the necessary particulars as to time and place, and it cannot be legitimately contended with respect to them that they are vague in the sense that they do not enable the petitioners to make effective representation against their order of detention.

7. This leaves us with ground No. 10 of Moolsingh's grounds, which is identical with ground No. 12 of the grounds supplied to Sajjansingh. This ground is to the effect that the petitioners had from time to time threatened one Harchand son of Samratha, resident of Newa, to pay money with the result that he paid a sum of Rs. 1000/- in various instalments.

We are clearly of opinion that this ground cannot be said to be so vague as to create any real difficulty in the way of the petitioners making a representation with regard to it. After all, it may not have been possible for the police to know the precise dates when the various instalments totalling the amount of Rs. 1000/- may have been made. The total amount paid and the person from whom it was extracted and where he lived have all been mentioned.

8. We desire to add two things in this connection. The first is that we cannot forget that it was open to the petitioners to have applied for further particulars in case they had any real grievance that the grounds supplied to them were not precise enough to enable them to make an effective representation. This right to ask for further particulars has been recognised by the decision of their Lordships of the Supreme Court in *State of Bombay v. Atma Ram*, AIR 1951 SC 157 (A), where Kania, C. J. while delivering the majority judgment observed as follows :

'If the grounds are not sufficient to enable the detenu to make a representation, the detenu can rely on his second right, and if he likes, he may ask for particulars which should enable him to make an effective representation.'

The second right referred to is the right enshrined in Article 22(5) which enjoins the detaining authority to afford the detenu the earliest opportunity to make a representation against the order. It is not disputed before us that the petitioners did not make any such grievance to the detaining authority or to the Government.

9. The next point to which we wish to draw attention is that no hard and fast rule can be laid down to determine the vagueness or otherwise of the grounds supplied to the person detained, and that each case will have to be decided on its own facts and circumstances. In *Atma Ram's case (A)*, referred to above, Kania C. J. made certain observations on the meaning of the word 'vague', which are as follows :

'Vague can be considered as the antonym of definite. If the ground which is supplied is incapable of being understood or defined with sufficient certainty, it can be called vague. It is not possible to state more affirmatively on the question of what is vague. It must vary according to the circumstances of each case ..... If on reading the ground furnished it is capable of being intelligently understood and is

sufficiently definite to furnish materials to enable the detained person to make a representation against the order of detention it cannot be called vague.'

This view was reiterated by the Supreme Court in *Lawrence D'Souza v. State of Bombay*, (S) AIR 1956 S C 531 (B). We should also like to make it clear that the principle of the decision of their Lordships of the Supreme Court in *Ram Krishan v. State of Delhi*, AIR 1953 SC318 (C), or of our own decision in *Bhom Singh v. The State*, Cri. Misc. Writ No. 35 of 1956, D/- 6-4-1956 (Raj) (D), has no application to the facts and circumstances of the present case.

10. Bearing these principles in mind, we have come to the conclusion that the grounds supplied to the petitioners, though they are perhaps not couched in a manner which we should have desired, are still not unsatisfactory, and they are not open to any substantial challenge on the ground of vagueness, much less irrelevance, and on a careful analysis thereof, we are satisfied that they were sufficiently particularised so that they did not or would not offer any real difficulty in the way of the petitioners making, an adequate representation against their detention within the meaning of Article 22 of the Constitution.

11. Before we conclude, we should like to point out that it is the duty of the detaining authority to formulate the statement of grounds against the detenu in a precise and concise manner and the authority should avoid undue prolixity in the drawing up of the grounds so that unnecessary complications are avoided.

At the same time, it is essential that the grounds furnished to the detenu should consistently with the privilege not to disclose facts, which are not desirable to disclose in public interest be as full and adequate as the circumstances permit, and a departure from this desideratum would amount to a violation of Article 22(5) of the Constitution which must entail the quashing the order of detention.

12. The result is that this application is without any real force, and we hereby dismiss it accordingly.