

Mohd. Pearoo Vs. the State and ors.

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Court : Kolkata

Decided On : May-30-1968

Reported in : AIR1969Cal157,1969CriLJ405

Judge : R.N. Dutt and ;S.K. Chakravarti, JJ.

Acts : [Preventive Detention Act, 1950](#) - Section 3 and 3(2)

Appeal No. : Criminal Misc. Case No. 179 of 1968

Appellant : Mohd. Pearoo

Respondent : The State and ors.

Advocate for Def. : Debaprasad Chowdhury, Adv.

Advocate for Pet/Ap. : Shiblal Bose, Adv.

Judgement :

R.N. Dutt, J.

1. This is an application under Section 491 of the Code of Criminal Procedure for a Writ in the nature of habeas corpus against the detention of Mohd. Idris under Sub-section (2) of Section 3 of the [Preventive Detention Act, 1950](#).

2. It appears that the detenu, Mohd. Idris is being detained on the basis of an order of detention made by the Commissioner of Police, Calcutta, on February 5,

1968 under Section 3 (2) of the [Preventive Detention Act, 1950](#).

The detention order reads as follows: "Whereas I am satisfied with respect to the person known as Mohd. Idris, son of Mohd. Israil of 19 Watgunge Street (Austin Berry Gali) Calcutta, that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order it is necessary so to do, I therefore in exercise of the powers conferred by Section 3 (2) of the [Preventive Detention Act, 1950](#) make this order directing that the said Mohd. Idris be detained.'

3. Mr. Bose first submits that the detenu was taken into custody under Section 3 (2) of the Preventive Detention Act on August 15, 1967. But this Court set aside the order of detention and the detenu was released from prison on February 5, 1968. The detenu was again detained under the Preventive Detention Act on the same date. He argues that such detention is bad In law, He contends that since the previous detention order was set aside the District Magistrate was not competent to again detain the detenu under the Preventive Detention Act on the self-same grounds. It is not denied that the detenu has again been detained on the self-same grounds. But here it is not a question of revocation of the order of detention by the State Government. Here under the orders of the Court the detenu was set free not on considerations of merits but on a technical defect and so the detaining authority is competent to again detain the detenu on the same grounds. There is no bar in law to this. This objection therefore fails

4. Mr. Bose then submits that ground No. (1) recites an incident which is said to have taken place on August 31, 1966 and he argues that this has no proximate connection with the order of detention which was made on February 5, 1968. It is true that the detention order was made about one and a half years after the alleged date of ground No. (1). But when we take into consideration the other grounds it appears that the detenu was said to have been indulging in similar activities till 1967 and that gives ground No. (1) proximate connection with the detention order or in other words, with the purpose for which the detenu is being detained, namely, maintenance of public order.

5. Mr. Bose then submits that the other grounds have no connection with the maintenance of public order. Ground (1) speaks of a riot clearly involving public

order. The other grounds no doubt recite individual assaults but such assaults are said to have taken place on public streets and ground No. (3) states that peace of the locality was disturbed. The allegation in these grounds is that the detenu used violence in public places and in view of ground No. (1), when the grounds are considered together we are not prepared to say that the grounds have no connection with the maintenance of public order.

6. Mr. Bose finally argues that the Commissioner of Police had no jurisdiction to make the instant detention order as the detenu is said to have been indulging in these, activities beyond the Presidency town of Calcutta. We find that the detenu is said to have indulged in these activities within the jurisdiction of Watgung Police Station. This is a suburban area and by a notification under Section 1 of the Suburban Police Act this area has been brought under the Commissioner of Police, Calcutta. Section 3 of the Preventive Detention Act empowers the Commissioner of Police, Calcutta, to make the detention order. It does not specifically say 'in the Presidency town of Calcutta'. Obviously, the Commissioner of Police has Jurisdiction to make the detention orders under the Preventive Detention Act in respect of the suburban areas also, and in that view of the matter we do not think that the order of detention is bad in law,

7. No other point is taken. In the result the Rule is discharged.

S.K. Chakravarti, J.

8. I agree.

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