

Mohammad Rustum Lone Vs. State and ors.

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Court : Jammu and Kashmir

Decided On : Apr-04-2007

Reported in : 2007(2)JKJ578

Judge : Mansoor Ahmad Mir, J.

Appellant : Mohammad Rustum Lone

Respondent : State and ors.

Disposition : Petition dismissed

Judgement :

Mansoor Ahmad Mir, J.

1. Ghulam Ahmad Lone brother of Mohammad Rustum Lone- detenu S/o Abdul Aziz Lone R/o Sogam, Kupwara has filed this petition for quashing detention order bearing No. 07 DMK/PSA of 2006 dated 08.03.2006, passed by the District Magistrate Kupwara in terms of the provisions of the Jammu and Kashmir Public Safety Act 1978 (for short 'The Act') and on the grounds taken in the writ petition.

2. Respondents have filed the counter affidavit and contested the same.

Record discloses that detenu came to be detained in terms of the impugned detention order on 12.03.2000, thus delay has not crept in execution of the detention order. Copies of grounds of detention order, dossier and detention order

were served upon the detenu on 12.03.2006. Record also discloses that notice under Section 13 of the Act came to be served upon the detenue for making an effective representation. Record was examined by the board and detenu was heard personally. In the given circumstances one comes to the conclusion that all the safeguards have been adhered to.

3. It is averred in the petition that detenu was arrested on 12.06.2003 and came to be detained in detention order on 12.09.2003 and that detention order came to be quashed by this Court vide judgment dated 10.07.2004. Thereafter again detenue was detained in terms of the detention order dated 14.03.2005 which also came to be quashed by this Court on 20.12.2005. Detenu was enlarged on bail in the cases facing trial before the trial court but was not released. Respondents have specifically averred in the counter affidavit that detenu was released and after release he has re-cycled in the militancy activities and was arrested in FIR No. 19/2006 Police Station Kupwara under Section 307,7/25 Arms Act on 23.02. 2006. Further it is averred in the grounds of detention and counter affidavit that detenu while in custody and even after release was in touch with militants inside and outside the jail. He also threatened prosecution witnesses and made them to turn hostile. It is profitable to reproduce last two paras of grounds of detention as under:

Your activities are detrimental to and constant threat to the security of the State. Your activities came to an end only when P/S Sogam apprehended you on 12.06.2003.

Ordinary law of the land will not serve you as a corrective; your detention under the provisions of J&K; PSA 1978 becomes imperative.

4. It is also profitable to reproduce paras 2 and 4 of the counter affidavit as under:

In reply to para No. 4,5, it is submitted that the detenue was arrested by the security forces, and was booked in various FIR no's 58/02,60/02,19/06 Under Section 307,7/25 were registered in police station Kupwara when 2 No. of Rocket Launcher shells have been recovered from the detenue. The later on detained under Public Safety Act in terms of an order bearing No. 07/DMK/PSA of 2006

dated 08.03.2006 issued by the competent authority.

In reply to grounds, a, b, c, it is submitted that during the custody of the detenu under the Public Safety Act. He did not choose to remain silent in the jail. He continuously kept himself involved in the militant activities, such as conveyed messages through his relatives to the militants, militants threat to the witnesses, as such, no witness came to depose against him before the trial court in the murder case.

5. Petitioner/deteue has not filed any rejoinder or supplementary affidavit in response to the counter.

It appears that sufficient material was available before the Detaining Authority. The perusal of the record indicates that Detaining Authority was conscious and aware of facts and circumstances of the case.

In the given circumstances of the case. I am of the considered view that the impugned order needs no interference and the petition in hand merits dismissal. Accordingly, writ petition is dismissed.

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