

SUPREME COURT OF INDIA

Subal Chandra Ghosh

Vs.

State of W.B.

Writ Petns. Nos. 306 and 309 of 1971

(P. Jaganmohan Reddy and D. G. Palekar, JJ.)

07.12.1971

JUDGEMENT

P. JAGANMOHAN REDDY, J.:-

1. These two petitions challenge the order of detention made under the West Bengal (Prevention of Violent Activities) Act, 1970 (herein after called "the Act"). The petitioner in Writ Petition No. 306/71 was detained on 30-4-71 by an order made by the District Magistrate, 24 Parganas, dated 27-4-71. The order of detention and the grounds were served on him on the same date. A report of having made the order was made by the District Magistrate to the State Government on 30-4-71 which was approved by it on 5-5-71 on which date the State Government also reported to the Central Government. A representation was received from the petitioner on 24-5-71 which was considered and rejected by the Government on 29-5-71 on which date the Government placed the case before the Board. The Advisory Board reported to the State Government that in its opinion there was sufficient cause for detention and the State Government confirmed the detention and extended the period of detention on 26-7-71. In Writ Petition No. 309/71 the detention order was made in 28-4-71 by the District Magistrate, Jalpaiguri and on the same date the State Government was addressed about the said detention order which the State Government approved on 7-5-71. A report was also made on that date to the Central Government. The petitioner was arrested on 28-4-71 and he made a

representation which was received by the State Government on 31-5-71 which representation was considered and rejected by the State Government on 17-6-71. The case was placed before the Advisory Board on 27-5-71 and the Advisory Board reported on 5-7-71 that there was sufficient cause for the petitioner to be detained. The State Government confirmed this order and extended the period of detention on 26-7-71.

2. It will be seen from the various steps taken by the concerned authorities and the State Government that all the mandatory provisions of the law were complied with and the confirmation and extension of detention was made within three months from the date of arrest.

3. The question that now remains to be considered is whether the grounds upon which each of the petitioners has been detained are irrelevant or vague. In Writ Petition No. 306/71, the two grounds upon which the petitioner has been detained are as follows:

1. That on 22-3-71 at about 22.50 hrs., you along with your associates committed theft in respect of cash, wrist watch, torch light etc. from one Dalip Kumar Nandi, a Railway Storekeeper of Danpur and another at the point of daggers in between Shyamanagar and Kankinara Rly. Stations, while they were travelling in train No. 45 UP (Naihati Local) from Sealdah. Your activities made the passengers of the compartment panicky and public order was disturbed thereby.

2. That on 23-4-71 at about 22.30 hrs., you and your associates while moving in the platform of Ichapur Rly. Station with a view to commit a cognizable offence, charged bombs on the on-duty Police and threatened them to kill by showing a dagger as they chased you. Your activities let loose a reign of terror in the station area. You created disturbance of public order thereby.

In respect of the first ground the learned Advocate, Shri Dhingra, amicus curiae, assisting us contends that the ground is vague and at any rate does not show that the acts of the petitioner were prejudicial to the maintenance of public order and that since this ground is not valid, the entire detention order becomes invalid. We have earlier pointed out in the other Writ Petitions disposed of today that under Section 3 (2) of the Act, the expression, "acting in any manner prejudicial to the security and maintenance of public order" has been defined to include under Section 3 (2) cases where a person commits or instigates any person to commit any offence punishable with death or imprisonment for life or imprisonment for a term extending to seven years or more or any offence under the Arms Act, 1959 or the Explosive Substances Act, 1908, where the commission of such offence disturbs, or is likely to disturb, public order. In this case it cannot be denied that the act of the petitioner that he with other associates committed theft of various articles by showing a knife from a person travelling in a train carrying passengers certainly constitutes an offence which can be described as robbery, a robbery with violence or a robbery on a highway or a robbery committed between sun-set and sun-rise, the minimum punishment for which is 10 years though it may even extend to 14 years according to the nature of the offence. The question therefore, is whether such an offence as is alleged against the detenu is likely to disturb public order. The facts set-out in ground No. 1 clearly show that the offence alleged against him is committed in a daring manner, in

travelling train in the presence of passengers which must have created panic or which is likely to create panic and disturb public order. We do not, think that this ground is vague or irrelevant.

4. The second ground is also directly connected with the disturbance of public order.

5. In Writ Petition No. 309/71 the two grounds alleged against the petitioner justifying his detention are as follows:

1. on 8-4-71 at about 10.15 hrs. you along with others armed with daggers forced into the District Live Stock Office at Kamarpara, Jalpaiguri town and set fire to the office burning papers, files, furniture and other articles. You also pointed a dagger at the peon of the office with a view to preventing him from raising any alarm.

2. On 17-4-71 at about 10.45 hrs. you along with others armed with knife and other dangerous weapons forcibly entered into the office of the Testa Bridge Construction Division of the PWD at Paharipara, Jalpaiguri town, set fire to the office files and records reducing them to ashes. You also prevented the office staff from giving any resistance to you by pointing knife at them.

A glance at these grounds would definitely indicate that the petitioner was acting or has acted in a manner which disturbed or is likely to disturb public order. The Distt. Live Stock Office was entered into by the petitioner along with others and files and other articles were burnt. The petitioner also pointed a dagger at the Peon who was also threatened to prevent him from raising an alarm. The second ground also shows that the petitioner and others armed with daggers set fire and burnt the office files and records of the PWD. They also prevented the office staff from resisting them by threatening them. As the grounds on which the petitioners have been detained are germane to the disturbance of public order they are not irrelevant or vague and these petitions are accordingly dismissed.

Petitions dismissed.