

Ramesh Roy Alias Ramsha

Vs

State of West Bengal

Writ Petition No. 49 of 1972

(P. Jagmohan Reddy, K. K. Mathew JJ)

03.05.1972

JUDGMENT

JAGANMOHAN REDDY, J. -

1. The petitioner challenges the validity of his detention by this application under Article 32 of the Constitution. The District Magistrate of 24-Parganas having been satisfied that the petitioner was acting in a manner prejudicial to the maintenance of public order directed his detention under sub-section (1) read with sub-section (3) of Section 3 of the West Bengal (Prevention of Violent Activities) Act, 1970 (No. 19 of 1970) hereinafter called the Act.

2. The State Government was intimated of this order on July 14, 1971 and it approved the Order on July 21, 1971. The petitioner was arrested on July 12, 1971 on which date he was served with the grounds of detention. The State Government immediately on the same day as it approved of the detention order reported to the Central Government enclosing therewith the grounds upon which the detention was made and other relevant documents. Two representations were received from the detenu by the State Government one on August 11, 1971 and the other on August 12, 1971 which were considered and rejected by it on September 2, 1971. Thereafter those representations were forwarded to the Advisory Board for consideration. The Advisory Board considered the grounds and other material placed before it and after hearing the petitioner in person submitted its report to the State Government on September 3, 1971, that in its opinion there was sufficient cause for detention of the petitioner. On receipt of this advice, the State Government on September 10, 1971 in exercise of the powers conferred by sub-section (1) of the Section 12 of the Act confirmed the said order of detention. The State Government also communicated the fact of the detention being confirmed to the detenu forthwith on the same day. The sole ground of detention mentioned in the grounds served on the petitioner is as follows :

"That on the night of June 1, 1971 at about 01.30 hrs., while committing theft of rice from Wagon No. SE-39751 at Bongaon Railway Station Yard, you and your associates charged bombs upon the on-duty R.P.F. Party with a view to do away with their lives, when challenged by them. As a result of your bomb charges, SR-3179 Himangshu Bhushan Dhar Sharma of the R.P.F. Party sustained burn injury on his person. By explosion of bombs you and your associates created panic in the station area and in the adjoining locality. You created disturbance of public order thereby."

3. The petitioner was informed that he may make such representation as he may choose, that his case will be placed before the Advisory Board within one month from the date of his detention and that if he desired to be heard person, the Advisory Board should be intimated of such desire in the

representation to be made to the State Government.

4. From the narration of facts and the relevant dates it would appear that the mandatory provisions of the Act have been complied with. The advocate for the petitioner has no complaint on this aspect of the matter. He, however, on a misapprehension thought that under the provisions of clause (2) of Article 22 of the Constitution, the petitioner should have been produced before a Magistrate within 24 hours of his arrest. He, however, omitted to notice that clause (3) of the said article specifically exempts a detention under any law relating to preventive detention such as that authorised by the Act from the provisions of clause (2) of Article 22. It is also contended that the report of the Advisory Board was only by one member and that when the records were examined and signatures of all the three members were noticed, it was contended that one of the signatures did not look like that of the member who is said to have signed. In the case decided yesterday, a similar question relating to the same Board was raised. There we had held that all the three members of the Board had taken part, that all of them had signed but one of the signatures which looked like a more stroke was typical of the signature of that member and indicates his having taken part in the proceeding of the Board. In this view we find no validity in this submission. Lastly it is contended that the acts specified in grounds do not amount to disturbance of public order though they may amount to a disturbance of law and order. We have also dealt with this aspect in the decision just now pronounced in *Parimal Sarkar v. The State of West Bengal* ((1972) 2 SCC 520), as such we do not intend to reiterate those reasons. It is also contended by reference to the decision in *Keshab Roy v. State of West Bengal* that the grounds which were the subject matter of consideration in that decision had specifically mentioned that the acts complained of by the detenu had created panic and terror in the locality and because of that it was held that those acts were prejudicial to the maintenance of public order. In this case, however, it is urged that the word 'terror' has been omitted while alleging that the act complained of created panic. The learned advocate contends that the word 'panic' implies that the act complained of to be less violent and consequently has not the effect of disturbance of public order. We think that this argument is misconceived. 'Panic' is a state of mind or reaction to fearsome or gruesome events or even creating unreasoning or hysterical fear, often spreading quickly. It is the effect, the cause being due to many situations. What creates panic can also create terror depending upon the acts with which a person is confronted. We do not think there is any validity in the submission that because the word 'panic' is used, it does not indicate that the act complained of is not prejudicial to the maintenance of public order.

5. As there is no illegality in the detention, this petition is dismissed.

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