

Didar Singh

Vs

The District Magistrate, Amritsar and Others

Criminal Appeal No. 45 of 1973

(C.A. Vaidialingam, A. Alagiriswami JJ)

16.03.1973

JUDGMENT

VAIDIALINGAM, J. –

1. The appellant was detained by the District Magistrate, Amritsar, on June 20, 1972, under Section 3, sub-section (2), read with Section 3(1)(a)(i) of the Maintenance of Internal Security Act, 1971, as amended by sub-section (6) of Section 6 of the Defence of India Act, 1971. He challenged the detention before the High Court of Punjab and Haryana in Criminal Writ No. 38 of 1972. The High Court upheld the order of detention and dismissed his writ petition. The detenu has come up to this Court by special leave.

2. Mainly two contentions were raised before us by Mr. Srinatha Singh, learned counsel for the appellant -

(1) the copies of the grounds for detention (1) were supplied to the detenu in Punjabi and English languages and as he knows only Urdu, he has been denied an effective opportunity to make his representation; and

(2) there has been considerable delay in the disposing of the representation made by the detenu.

From the affidavit of the District Magistrate, Amritsar, before the High Court, it is seen that the appellant was arrested on June 20, 1972, and the grounds of detention were served on the petitioner in English and Punjabi languages on the same day. The petitioner being a born Punjabi has not raised any objection that he did not know either English or Punjabi. It is further stated that he sent a very lengthy representation covering about nine typed pages in English and signed the same in Punjabi. According to the District Magistrate, the plea of the appellant that his mother-tongue is Urdu and that he is not familiar with English or Punjabi is an after-thought.

3. The appellant has accepted in his Writ Petition that the grounds of detention were served on him in English together with a transliterated copy in Punjabi (Gurmukhi script). But his plea is that he does not possess any knowledge of Punjabi or English, as his mother-tongue is Urdu. It is accepted on behalf of the appellant that he did send a very lengthy representation covering several typed pages in English and signed in Punjabi. If that is so, it is reasonable to infer that the appellant was able to fully understand the nature of the allegations made against him. If that were not so, it is difficult to appreciate how he was able to make such a lengthy representation dealing with the several allegations contained in the copies of the grounds served on him. This cannot be considered to be a case where no effective opportunity was furnished to the appellant because on his alleged

language difficulty. Therefore, the decision of this Court in Chaju Ram v. State of Jammu and Kashmir, ((1970) 3 SCR 872 : (1970) 1 SCC 576 : 1970 SCC (Cri) 227) is of no assistance to the appellant. Therefore, the first contention has to be rejected.

4. Coming to the second contention regarding the delay in the Government dealing with the representation, it is necessary to refer to the various dates given in the counter-affidavit filed before the High Court by the Secretary (Home), Government of Punjab. The appellant in his Writ Petition had merely stated that he made a representation to the Government on July 16, 1972, and that no action had been taken by the State. On the other hand, from the affidavit of the Home Secretary, the following particulars are gathered.

5. The appellant delivered to the Superintendent, Central Jail, his representation, dated July 18, 1972, and the same was forwarded, the next day and was received by the Government on July 20, 1972. As the order of detention had been passed by the District Magistrate, by letter, dated July 21, 1972, the Government called for the comments of the said officer on the representation by the detenu. The District Magistrate sent his comments on July 25, 1972, and they were received by the Government next day. But as certain further clarification had to be obtained in respect of the matters referred to by the detenu in Paragraphs 11 and 14 of his representation, the Senior Superintendent of Police, Amritsar, was contacted to send the necessary clarification. The reply of the Senior Superintendent of Police Amritsar, was received on July 31, 1972, furnishing the information called for. The representation made by the detenu together with the comments of the District Magistrate, the Senior Superintendent of Police, Amritsar and the Deputy Inspector-General of Police (C.I.D.) were considered by the Home Secretary and the entire file with his remarks was placed before the Chief Minister on July 31, 1972. The Chief Minister on a consideration of the entire facts rejected the representation of the detenu on August 6, 1972. The District Magistrate, Amritsar, was informed about this rejection on August 9, 1972, with a request to inform the detenu. At this stage it may be mentioned that the District Magistrate has stated that the rejection of the representation was promptly communicated to the detenu.

6. From the above facts it is clear that there has been no delay, much less any unexplained delay, in the disposal of the representation made by the appellant. The representation has been dealt with as expeditiously as possible at every stage. Further, the entire period has been properly explained in the affidavit of the Home Secretary. Therefore, the decision of this Court in Khaidam Ibocha Singh, etc. v. State of Manipur, ((1972) 1 SCR 1022 : (1972) 2 SCC 576 : 1972 SCC (Cri) 894) does not assist the appellant. This contention also will have to be rejected.

7. A feable argument was raised by the learned counsel for the appellant that the verification made in the affidavit of the District Magistrate and Home Secretary are not in order. We do not find any defect in them.

8. In the result the appeal fails and is dismissed.

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