

SUREME COURT OF INDIA

Adhir Naia

Vs.

State of West Bengal

(Y.V.Chandrachud and R.S. Sarkaria JJ.)

16.10.1974

JUDGMENT

CHANDRACHUD, J-

By an order dated May 29, 1972, the District Magistrate, 24 Parganas directed that the petitioner be detained under the Maintenance of internal Security Act, 1971 as he was acting in a manner prejudicial to the maintenance of supplies and services essential to the community., The particulars of the ground of detention refer to a single incident described thus:

"That on 24-5-72 at about 10 35 hrs. you along with your associates broke BEX Wagon No. WR 75961 loaded with food grains at Mathurapur Goods sidings and decamped with 10/12 bags of wheat and rice. Your action caused disruption of supply and services".

After the rule issued in this habeas corpus petition was served on the respondent, the State of West Bengal, the District Magistrate filed a counter-affidavit in answer to the petition. Paragraph 5 of the aforesaid affidavit says that the order of detention was passed after the District Magistrate was satisfied that it was necessary to detain the petitioner with a view to preventing him from acting in a manner prejudicial to the maintenance of supplies and services essential to the community; that the District Magistrate was satisfied that if the petitioner was not detained he was likely to act in a manner described above; and that : "The nature of act, the manner in which the same was committed, the effect and result of said activity upon the community and the question of supply of food grains were taken by me into consideration before making the order of detention".

Learned counsel appearing on behalf of the petitioner argues that the petitioner was ordered to be detained on the basis of a single, isolated incident and that no reasonable person could possibly come to the conclusion that it was necessary to detain the petitioner in order to prevent him from acting prejudicially to the maintenance of supplies and services essential to the community. This submission, in our opinion, is well-founded and must be accepted. In *Debu Mahato v. State of West Bengal*(1), the District Magistrate had passed an order directing that the petitioner therein be detained with a view to preventing him from acting in a manner prejudicial to the maintenance of supplies and services essential to the community. Only one ground of detention was set out, namely, that the petitioner and his associates were found removing three bales of empty jute bags after breaking open a railway wagon and that when challenged by the Railway Protection Force they fled away leaving the booty behind. A Bench consisting of three learned Judges held that though it could not be laid down as an invariable rule that in no case can a single, solitary act form the basis for reaching the satisfaction that the detenu might repeat such acts in future, in the circumstances of the

particular case one solitary isolated act of wagon breaking committed by the petitioner could not possibly persuade any reasonable person to reach the satisfaction that unless the petitioner was detained he would in all probability indulge in further acts of wagon breaking. This conclusion was not reached by the Court on the basis that what was stolen was empty jute-bags. The conclusion is based on the circumstance that (1) [1974] 4 S.C.C. 135. what was alleged against the petitioner was his involvement in a solitary, isolated act of wagon breaking and secondly, nothing was said by the District Magistrate in his counter-affidavit suggesting that wagon breaking had become so rampant that in the context of the peculiar situation, the District Magistrate arrived at the requisite satisfaction in spite of the fact that the act on which the satisfaction was founded was just one single, solitary act of wagon breaking. No two cases can have precisely identical facts but we are unable to see any material distinction in the facts of the case before us and the facts in Debu Mahato's case. A single act has been attributed to the petitioner and it consists of a theft of 10 or 12 bags of wheat and rice after breaking open a wagon. The act was not accompanied by violence or by show of force and the District Magistrate has not stated in his affidavit that by reason of the peculiarity or enormity of the situation, he formed the requisite satisfaction as regards the necessity to detain the petitioner, even though the satisfaction was founded on an isolated incident.

Mr. Chattarjee who appears on behalf of the State of West Bengal, argues that the judgment of this Court in Debu Mahato's case was predominantly influenced by the consideration that the District Magistrate in his counter-affidavit had stated that the petitioner was "one of the notorious wagon breakers" and was engaged in systematic breaking of railway-wagons. We are unable to agree. Two grounds were urged in Debu Mahato's case for invalidating the detention order. The first ground was that the District Magistrate could not have possibly reached the satisfaction on the basis of a single incident that unless the petitioner was detained, he would indulge in further acts of wagon-breaking. While considering this argument, no reference at all was made by the Court to the fact that in the counter-affidavit, the District Magistrate had referred to circumstances which were not disclosed to the detenu. Having held that the order was liable to be set aside on the ground that the satisfaction of the District Magistrate was truly no satisfaction at all, the Court proceeded to consider the second ground of attack, namely, that the order of detention was based on facts not disclosed to the petitioner. That is why the judgment on the second ground of attack begins by saying: "There was also another angle from which the validity of the order of detention was challenged on behalf of the petitioner". It is manifest from the judgment that the order of detention was held to be bad on two separate and distinct grounds and the reasons which weighed with the Court on the second aspect of the matter did not influence its decision on the first ground of attack.

Counsel for the State then urged that the sufficiency of grounds of detention is not a justiciable issue and all that the Courts can consider is whether the grounds of detention are germane to the purpose for which the detention has been ordered. Learned counsel argues that if wagon-breaking for the purpose of committing theft of foodstuffs bears nexus with the maintenance of supplies and services essential to the community, the detention must be upheld at all events and the Courts have no jurisdiction to enter into the question whether any other conclusion was possible on the basis of facts placed before the detaining authority. It is true that Courts cannot sit in appeal over the propriety of detention orders. But the argument of the State overlooks the distinction between the Court's jurisdiction in regard to the sufficiency of grounds necessitating the detention and its jurisdiction to examine whether a reasonable person could at all reach the conclusion that unless the person is detained he would in all probability indulge in a similar course of conduct. We are not concerned to consider whether the District Magistrate was justified in passing the order of detention on the strength of the material available to him. So long as the grounds of detention are germane to

the purpose of detention, Courts do not weigh the evidentiary value of the data placed before the detaining authority in order to determine the sufficiency of that data as justifying the order of detention. The point of the matter is that considering the nature of the act attributed to the petitioner and its context, and not merely the fact that the ground of detention refers to a single incident, the satisfaction reached by the District Magistrate that the petitioner, unless detained, was likely to commit similar acts in the future is such as no reasonable person could possibly reach. The conclusion that the past conduct of the detenu raises an apprehension regarding his future behaviour must at least be rational.

Accordingly, we set aside the order of detention, make the rule in this petition absolute and direct that the petitioner shall be released forthwith.

P.H.P.

Petition allowed.