

Gandhi Sardar

Vs

Union of India and Others

Writ Petition No. 456 of 1974

(K. K. Mathew, P. N. Bhagwati JJ)

09.01.1975

JUDGMENT

BHAGWATI, J. –

The petitioner challenges an order of detention made by the District Magistrate, 24-Parganas under sub-section (1) read with sub-section (2) of Section 3 of the Maintenance of Internal Security Act, 1971. The order of detention was made on December 29, 1973 on the ground that it was necessary to detain the petitioner with a view to preventing him from acting in any manner prejudicial to the maintenance of public order. The grounds on which the order of detention was based referred only to one incident and that was described in the following terms :

On the night of June 25/26, 1973 at about 00.01 hrs. you along with your associates being armed with lethal weapons including firearms raided the house of Ananta Kayal of Naltala under Diamond Harbour P.S. and looted away cash, ornaments, etc. At the time of operation you fired from your firearms indiscriminately disregarding human lives and their safety. As a result the house owner Ananta Kayal and his close neighbour Ajit Kayal sustained serious gunshot injuries on their persons. Subsequently both of them expired in Diamond Harbour Hospital. You also brutally assaulted some of the inmates of the house of occurrence. Your action created such panic in the locality and the local people felt a sense of insecurity. This you acted in a manner prejudicial to the maintenance of public order.

The petitioner contended that this was a solitary incident which could not possibly sustain the inference that the petitioner was acting in a manner prejudicial to the maintenance of public order and with a view to preventing him from so acting it was necessary to detain him and the satisfaction of the District Magistrate in this behalf was, therefore, not real and genuine and could not support the making of the order of detention. This contention is, however, without force. It stands concluded by a recent decision of this Court in *Gora v. State of W. B.* ((1975) 2 SCC 14 : 1975 SCC (Cri) 391.) It appears from the facts of that case the same incident which was relied upon in the present case for the purpose of making the order of detention also formed the basis of the making of the order of detention in that case. The petitioner in the present case and Gora who was the detenu in that case were associates who participated together in this incident. Gora challenged the validity of the order of detention made against him on the basis of this incident on the self-same ground on which the validity of the order of detention is assailed in the present case and that ground was negatived by this Court. Having regard to that decision, we must reject the challenge in the present case as well and sustain the order of detention.

2. The petition, therefore, fails and the rule is discharged.

</html