

Dhena Hembram

Vs

The District Magistrate, West Dinajpur and Another

Writ Petition No. 16 of 1975

(N. L. Untawalia, Syed Fazal Ali JJ)

09.04.1975

JUDGMENT

FAZAL ALI, J. -

1. An order of detention was passed against the detenu by the District Magistrate, West Dinajpur on May 4, 1974 under sub-section (1) read with sub-section (2) of Section 3 of the Maintenance of Internal Security Act, 1971. In pursuance of this order the detenu was referred to the Advisory Board which reported on July 6, 1974 that there was sufficient grounds for detaining the petitioner. The petitioner also made a representation which was received by the Government on June 25, 1974 and it was rejected by the State Government on July 2, 1974.

2. It is conceded by learned counsel appearing as amicus curiae for the petitioner that all the formalities required under the provisions of the Maintenance of Internal Security Act has been duly complied with. The grounds served on the petitioner are as follows :

"1. That on the night of January 21/22, 1974 at about .01 hrs. you along with your associates Chandu Murmu, Nazrul Islam alias Bisan and others being armed five-arms and other deadly weapons while proceeding to commit dacoity elsewhere were detected at village Bhitari Masum, P. S. Banshihari, District West Dinajpur by one Jolok Debsharma s/o Shahat Debsharma of that village who alongwith his brother Pashendra Debsharma was going to the village Chowghora under Banshihari P. S. for fetching medicine for their cattle with a burning hurricane lantern in his hand. Being challenged by Shri Jolok Debsharma, you fired one round causing his instantaneous death. On hearing the sound of gun fire, the R. G. members on duty and other three rounds at a time causing gunshot injuries on the person of other four men. When a gun licensee living nearby fired one round, you and your associates fired several rounds indiscriminately to terrorise the villagers. This daring incident created a wide-spread panic in the minds of the law-abiding citizens and a sense of insecurity, fear and fright prevailed in the area for a considerable period disrupting the even tempo of lives of the local people. Some of the witnesses could recognise you and some of your associates but they dared not open their lips against you and some of your associates out of fear of further trouble. Thus you disrupted the public order in Banshihari P. S. area.

2. That on the night of March 2, 1974 at about 2.30 hrs. you along with your associates Chandu Murmu, Nazrul Islam alias Bisan and many others being armed with fire-arms, spears, Hasuas, bows and arrows etc. raided the house of Pajiruddin

Mia s/o Jobaruddin Mia of Narayanpur, P. S. Banshihari, District West Dinajpur as well as five neighbouring houses belonging to Giasuddin Ahmed, Dhan Mohd. Hayat Mohd., Dasiruddin Mia and Tosadakshya Hossen of the name hamlet and looted away cash, rice, utensils and other household properties value Rs. 2,000-00. During the commission of the crime, you fired one round to terrorise the R. G. members and other villagers who had approached to resist the crime on hearing hue and cry raised by the inmates of the victims of the houses. As a result of this firing one of the R. G. members sustained gunshot injuries on his person. This incident also created a wide-spread panic in the minds of the law abiding citizens and a sense of insecurity, fear and fright prevailed in the area for a considerable period disrupting the normal flow of avocation of the people of the locality. Some of the witnesses could recognise you and your associates but out of fear of further trouble they dared not speak against you."

Thus you disturbed the public order.

3. The grounds are absolutely clear and specific and learned counsel has also conceded that the grounds are relevant and do not suffer from any ambiguity. The detenu is alleged to have committed two dacoities, one after the other within a period of two months. In the course of both the occurrences he is said to have used fire arms and threatened witnesses and therefore nobody is available to depose against him. This has undoubtedly disturbed public order.

4. We find no merits in this petition which is accordingly dismissed and the rule discharged.

</html