

Jai Singh and Others

Vs

State of Jammu & Kashmir

Writ Petitions (Criminal) Nos. 1571-1577 of 1984

(O. Chinnappa Reddy, R. B. Misra JJ)

24.01.1985

ORDER

CHINNAPPA REDDY, J. -

1. These seven writ petitions under Article 32 of the Constitution have to be allowed on the sole ground that there has been a total non-application of the mind by the detaining authority, the District Magistrate of Udhampur. We had called for the records and the learned counsel for the State of Jammu & Kashmir has produced the same before us. First taking up the case of Jai Singh, the first of the petitioners before us, a perusal of the grounds of detention shows that it is a verbatim reproduction of the dossier submitted by the senior Superintendent of Police, Udhampur to the District Magistrate requesting that a detention order may kindly be issued. At the top of the dossier, the name is mentioned as Sardar Jai Singh, father's name is mentioned as Sardar Ram Singh and the address is given as village Bharakh, Tehsil Reasi. Therefore it is recited "The subject is an important member of...." Thereafter follow various allegations against Jai Singh paragraph by paragraph. In the grounds of detention, all that the District Magistrate has done is to change the first three words, "the subject is" into "You Jai Singh, s/o Ram Singh, resident of village Bharakh Tehsil Resai". Thereafter word for word the police dossier is repeated and the word "he" wherever it occurs referring to Jai Singh in the dossier is changed into "you" in the grounds of the detention. We are afraid it is difficult to find greater proof of non-application of mind. The liberty of a subject is a serious matter and it is not to be trifled within this casual, indifferent and routine manner. We also notice that in the petitions filed by the detenu, he had expressly alleged that he and the others had already been taken into custody in connection with a criminal case on July 6, 1984 itself and all of them were in custody since then. The detenu has given details of where he was taken and when. He has also referred to the circumstance that an application for bail was moved on his behalf on the eighteenth before the High Court and it was only thereafter that the order of detention was made. These facts have not been denied in the counter-affidavit filed by the respondents. In fact we are unable to find anything in the records produced before us, either in the police dossier submitted to the District Magistrate for action or in any other document forming part of the record that the District Magistrate was aware that the petitioner was already in custody. There is nothing to indicate that the District Magistrate applied his mind to the question whether an order of detention under the Jammu and Kashmir Safety Act was necessary despite the fact that the petitioner was already in custody in connection with the criminal case. The cases of the other six petitioners are identical and in the circumstances, we have no option, but to direct their release forthwith, unless they are wanted in connection with some other case or cases.

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