

Ramveer Jatav

Vs

State of U.P. and Others

Writ Petition (Criminal) No. 549 of 1986

(CJI P. N. Bhagwati, Ranganath Misra JJ)

29.10.1986

### JUDGMENT

1. This is petition for a writ of habeas corpus challenging the validity of the order of detention passed by the District Magistrate, Agra on August 31, 1986, directing that the petitioner be detained in the District Jail, Agra, under sub-section (3) of Section 3 of the National Security Act, 1980. The order of detention was served on the petitioner on August 31, 1986, alongwith the grounds of detention. The grounds of detention set out only one ground in the following terms :

From the first information report which has been lodged by the informant/complainant Sri Anil Kumar Shukla, s/o Bhola Nath Shukla, r/o Village Tikaura Police Station Kishanpur District, Fatehpur, it appears that on June 24, 1986 at about 9.30 a.m. you alongwith your other companions, including Pappu Jain, Aklaish alias Raja Telang and others jointly committed the murder of the complainant's brother namely Atma Ram Shukla by firing at him in broad daylight, near the clinic of Dr Laxmi Narayana Gupta with the object of getting the land vacated by him. By this act of yours panic has spread in the area and General Public Order has been disturbed. You were arrested on June 27, 1986 and were sent to Agra jail. At present you are in jail but another of your companion Jitender alias Pappu Jain involved in the occurrence and whose bail application has been rejected by the Sessions Judge, is trying to get bail from the High Court and you are anxiously waiting for the fact that as soon as he is realised on bail you too may come out of the jail on bail. There is every likelihood that on your coming out on bail you will again indulge yourself in such other criminal acts, which will create danger to the Public Order. Charge-sheet has already been submitted in the matter after investigation which is under consideration with the Circle Officer.

On the basis of this ground the District Magistrate stated in the order of detention that there was every likelihood of the petitioner indulging "in any such activity which may be prejudicial to the public order and public tranquillity and therefore with a view to preventing him from indulging in such activity it was essential to detain him". The petitioner thereupon filed a writ petition challenging the validity of the order of detention on the ground that it disclosed non-application of mind and it was based on an irrelevant ground.

2. It is significant to note - and this was strongly urged on behalf of the petitioner - that there is only one ground on which the order of detention is based, namely, that the petitioner alongwith others jointly committed murder of Atma Ram Shukla by firing at him broad daylight near the clinic of Laxmi Narayana Gupta with the object of getting the land vacated by him and by this act of his, created panic in the area and consequently general public order was disturbed and from this one ground alone the detaining authority could not reasonably be satisfied that it was necessary to detain him with a view to prevent him from acting in any manner prejudicial to the maintenance of public

order. Now, it cannot be laid down as a bald proposition that one ground can never be sufficient for founding the satisfaction of the detaining authority for detaining a person. There are cases where one ground may be regarded as sufficient if the activity alleged is of such a nature that the detaining authority could reasonably infer that the detenu must be habitually engaged in such activity or there may be other circumstances set out in the grounds of detention from which the detaining authority could reasonably be satisfied even on the basis of one ground that unless the detenu is detained, he might indulge in such activity in future but here the only ground alleged against the petitioner is that he, alongwith others, jointly committed murder in broad daylight. This is the only ground given in the grounds of detentions without any other circumstances from which any inference could be drawn that the petitioner could be likely to commit such act, if left free. It is no doubt true that in the counter-affidavit filed by the District Magistrate several circumstances have been set out which might go to suggest that the petitioner is habitually indulging in criminal activity and some instances have also been set out by the District Magistrate in the counter-affidavit. But none of these circumstances finds a place in the ground of detention. It is well settled that the detaining authority cannot by an affidavit filed in court supplement what is stated in the grounds of detention or add to it. It is difficult to infer from the solitary ground set out in the grounds of detention that the act alleged to have been committed by the petitioner would have disturbed public order as distinct from law and order or that one single act committed by the petitioner was of such a character that it could reasonably be inferred by the detaining authority that if not detained, he would be likely to indulge in such activity in future.

3. We are therefore of the view that the ground of detention given in support of the order of detention was irrelevant and no reasonable inference could be drawn from that ground which would justify the making of the order of detention. We accordingly allow the writ petition and direct that the petitioner be set at liberty forthwith. But we may make it clear that if it is legally possible for the detaining authority to take any fresh preventive action against the petitioner it would be open to the detaining authority to do so.

</html