

State of U. P.

Vs

Hari Singh Thakur

Special Leave Petition (Criminal) No. 2357 of 1985

(M. P. Thakkar, B. C. Ray JJ)

29.01.1987

ORDER

1. While we are not happy with the manner in which the detention order has been quashed, having regard to the fact that about one year and nine months have elapsed since the quashing of the detention order (the order was quashed in May 1985 and we are in January 1987), we do not think it would be proper for us entertain this petition for special leave. Learned counsel for the petitioner has called our attention to the following passage in State of Rajasthan v. Shamsheer Singh (SCC pp. 426-27, SCC (Cri) pp. 431-32, para 11) :

We agree with the principle indicated above and in our opinion, in the facts of the present case, it cannot be said that there has been any negligence or remissness on the part of the State Government in dealing with the representation of the detenu or in the matter of causing the same to be placed before the Advisory Board. We are impressed by the fact that no prejudice has been caused to the detenu on account of the delay of a day beyond the statutory period in placing the representation before the Advisory Board inasmuch as the Advisory Board had caused the matter to be heard on September 10, 1984 and before the appointed date the representation was before the Board. The first ground on which the High Court came to hold that the detention was invalid has, therefore to be negatived.

2. The High Court might have apprised itself of the aforesaid judgment and decided the matter after taking into account the law laid down therein. We hope that the High Court will realise there is no particular virtue in quashing an order for in a given case a detention order may be fully justified and absolutely necessary for the protection of the society. The approach has to be an objective approach taking into account all the relevant circumstances and considerations in order to strike a balance between the need to protect the community on the one hand and the need to preserve the liberty of a citizen. We hope this aspect will be borne in mind in future. Subject to these observations, the special leave petition fails and is dismissed.

Court Master.

</html