

Mrs. U. Vijayalakshmi

Vs

State of T. N. and Another

Writ Petition (Cri.) No. 181 of 1992

(A. M. Ahmadi, M. M. Punchhi, K. Ramaswamy JJ)

25.08.1992

ORDER

1. The petitioner who is the wife of the detenu Uma Shankar has filed this petition under Art. 32 of the Constitution challenging the detention of her husband on two grounds which were urged before us, viz., (1) delay in dealing with the representation dated 11-5-1992 and (2) extraneous considerations having weighed in passing the detention order. The impugned order of detention passed under sub-section (1) of Section 3 of the Tamil Nadu Prevention of Dangerous Activities of Boot Leggers, Drug Offenders, Forest Offenders, Gundas, Immoral Traffic Offenders, and Slum Grabbers Act (XIV of 1982), hereinafter called the Act, is question on the aforesaid two grounds. The detention order as well as the grounds of detention are dated 6th May, 1992. Before we deal with the grounds of challenge we may refer to some of the provisions of the Act which have relevance.

2. The Act was enacted with a view to provide for preventive detention of certain classes of offenders including forest offenders to prevent them from indulging in inter alia activities prejudicial to the maintenance of public order. Section 2(a) defines the expression 'acting in any manner prejudicial to the maintenance of public order'. Clause (iiA) thereof says that in the case of a forest-offender, 'when he is engaged or is making preparations for engaging, in any of his activities as a forest-offender, which affect adversely, or are likely to affect adversely, the maintenance of public order' he can be said to be acting prejudicially to maintenance of public order. The explanation to the definition clause is material and reads as under:

"Explanation:- For the purpose of this clause, (a) public order shall be deemed to have been affected adversely, or shall be deemed likely to be affected adversely, inter alia if any of the activities of any of the persons referred to in this clause (a) directly or indirectly, is causing or calculated to cause any harm, danger or alarm or a feeling of insecurity, among the general public or any section thereof or a grave or widespread danger to life or public health or ecological system."

The definition of a forest-offender found in Section 2(ee) means a person, who commits or attempts to commit or abets the commission of offence, punishable under certain statutes enumerated therein.

3. In the instant case the impugned order has been made under sub-section (1) of Section 3 of the Act. The grounds of detention show that the detenu was indulging in activities which amounted to offences under the relevant chapters of the Tamil Nadu Forest Act, 1882 as amended from time to

time and he was, therefore, a forest-offender within the meaning of Section 2(ee) of the Act. After his detention the detenu made a representation dated 11th May, 1992, against the impugned detention order. This representation was handed over to the Jail Authorities who forwarded the same to the State Government. The State Government received the representation on 18th May, 1992 and conveyed the rejection thereof on 23rd June, 1992 which was received by the detenu on 26th June, 1992. The learned counsel for the detenu, therefore, contends that an inordinately long delay had taken place in dealing with the representation and hence the detenu is entitled to have the detention order quashed. In the counter affidavit filed by the Deputy Secretary to the State Government, the manner in which the representation was dealt with after its receipt on 18-5-92 has been stated in detail. We have perused the stages through which the file containing the representation was processed and we find that the representation was dealt with promptly and there was no indifference, lethargy or negligence in dealing with the same. The file was not unnecessarily held up at any level but moved from level to level promptly. We are, therefore, satisfied that the explanation tendered by the Deputy Secretary in this behalf is acceptable and does not betray any lack of sense or urgency in dealing with the representation. We, therefore, do not see any merit in the first contention.

4. The second contention is based on the facts stated in paragraph 4 of the grounds of detention. It is manifest from the facts stated in paragraph 4 of the grounds of detention that the emphasis is two fold; (1) that to profit from the high price fetched by sandal wood in the open market, illicit felling of sandal wood trees is on the increase, thereby causing widespread danger to the ecological system and loss of revenue to Government and (2) that the huge money falling into the hands of tribals makes them susceptible to drinking and gambling, thereby converting the poor and innocent tribals into anti-socials. So far as the first aspect is concerned we find from the grounds of detention that the detenu was involved in two similar cases in the past and the impugned order of detention was passed after he was found to have indulged in similar activity on 1st May, 1992. As is clear from the explanation to S. 2(a) extracted earlier, widespread danger to the ecological system must be deemed to affect public order adversely within the meaning of that expression in S. 2(a) of the Act. Counsel submitted that although it is asserted in paragraph 4 of the grounds of detention that the illicit cutting and removal of sandal wood trees from the reserved forest area causes widespread danger to the ecological system and disturbs the delicate equilibrium thereof, there is nothing on record to show that this assertion is well founded. We are afraid we cannot accept this submission made by the learned counsel for the detenu. It is manifest from paragraph 4 of the grounds of detention that this view was founded on the opinion of the District Forest Officer, Vellore. Once it is found that the ground of detention is one recognised by sub-section (1) of Section 3 of the Act, it is not for this Court to probe into the correctness of the alleged facts since this Court has a limited role in the matter of examining the validity of the detention order.

5. Counsel for the detenu next contended that the second aspect of paragraph 4 shows that extraneous consideration weighed with the detaining authority in passing the impugned detention order. He submitted that it is too remote to think that tribals resort to drinking, gambling and turn anti-socials merely because some extra money falls into their hands. Assuming without deciding that this contention is well founded, we are of the opinion that Section 5A of the Act takes care of it. Even if we were to hold that this ground is extraneous or irrelevant, that would not affect the validity of the detention order as Section 5A was introduced precisely to take care of such a situation. We, therefore, do not see any merit in the second contention also.

6. In view of the above we see no merit in this writ petition and dismiss the same. Petition dismissed.

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