

State of U.P.

Vs

Shakeel Ahmed

Criminal Appeal No. 1577 Of 1995

(K. Ramaswamy, S. B. Majmudar JJ)

28.11.1995.

ORDER

1. Though the respondent has been served, he does not appear either in person or through counsel. Notice is sufficient.
2. Leave granted.
3. The respondent was detained on 31-7-1989 under Section 3(1) (iii) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act. When he challenged the order of detention, the High Court in the impugned order dated 25-7-1990 made in WP No. 2029 of 1990 set aside the order of detention on the ground that the delay in non-consideration of the representation for one month, i.e., from 20-2-1990 to 15-3-1990, was not explained and also on the ground that copy of the report of the sponsoring authority had not been supplied to the detenu which violates Article 22(5) of the Constitution. We are of the opinion that the High Court was not right in setting aside the order of detention on these grounds. It is not mandatory that the report of the sponsoring authority should be supplied to the detenu under Article 22(5) of the Constitution. It is only a material furnished to the detaining authority. All the material on which reliance was placed for order of detention was admittedly supplied to the detenu. In the facts and circumstances of this case, the delay in disposal of the representation of about 23 days also is not fatal.
4. Under these circumstances, the order of the High Court setting aside the detention order is clearly illegal. However, since the period has already expired, we do not think that it is a case warranting further detention of the respondent.
5. The appeal is accordingly disposed of.