

(1997) 09 AHC CK 0099

In the Allahabad High Court

Case No : Writ Petition No. 419 and 420 (H/C) of 1997

Abhinandan Singh @ Ramesh Singh

APPELLANT

Vs

State of U.P.& Ors.

RESPONDENT

Date of Decision : 16-09-1997

Acts Referred:

National Security Act, 1980 — Section 3(2)

Citation : (1997) 09 AHC CK 0099

Hon'ble Judges : Virendra Saran, J and A.N.Gupta, J

Final Decision : Allowed

Judgement

A. N. Gupta, J.—These two petitioners have challenged their separate orders of detention each, dated 24497 passed by District Magistrate, Etah under Section 3(1) of the National Security Act, 198&

2. Both the detention orders are based on solitary ground. The ground of detention is that about twenty days prior to 941997 Ram Veer Singh and Jugendra Singh (petitioner) were passing through Mohalla Pahraiya Jaatwan town RajaKaRampur, District Etah armed with licensed gun, unlicensed countrymade pistols and cartridges. At that time one dog barked and ran after the motorcycle on which they were passing whereupon Ram Veer Singh and Jugendra Singh asked Santosh Kumar to keep the dog tied up. They abused and threatened him also. On account of threat extended by Ram Veer Singh and Jugendra Singh residents of Mohalla were terrorised and, therefore, they could not pick up courage of reporting the matter to the police. It is further said that on 941997 at about 8.30 p.m. when Santosh Kumar was doing the work of furniture in his hut with the help of Gas Lamp and several other residents of Mohalla were also busy in daily course, the two petitioners and Ram Veer Singh cached the shop of Santosh. They abused him and fired indiscriminately with a view to kill him due to which Munna Lal Kori, Yand Ran Jatav, Netrapal Jatav and Dinesh Chandra Jatav were seriously injured. Due to terror of the petitioners and their companion, the residents of Mohalla got down the shutter of their shops, closed

the doors of their houses and some persons ran away from their houses in order to save their life from these persons. This resulted into terror in the public. None could pick up the courage to inform the police outpost in the town. The news of this incident spread like a wild fire. After about an hour, Santosh Kumar injured reported the matter at RajaKaRampur police station at 9.30 p.m. on the basis of which case crime No. 35 of 1997 under Sections 307, 504 506 I.P.C. and 3(2) V of the SC and ST Act was registered.

3. Abhinandan Singh alias Ramesh Singh made his representation which was received by the State Government on 951997 and was rejected on 1551997. The representation of this detenu was received by the Central Government on 1551997 which was rejected on 2751997. So far as detenu Jugendra Singh is concerned, he made a representation to the State Government which was received by them on 751997 and was rejected by the State Government on 1551997. This detenu also made a representation to the Central Government which was received on 2551997 and was rejected on 16th July, 1997. Along with these two detenus, one Ram Veer Singh was also detained by the order of the same date passed by the District Magistrate, Etah under National Security Act, 1980. His detention order is also based on the same solitary ground on which detention order was passed against these two detenu. Ram Veer Singh made his representation to the Central Government which allowed the same on 2771997 and revoked his order of detention under Section 14 of the National Security Act, 1980. Ram Veer Sinoh had also preferred Writ Petition N". 421 (H/C) of 1997 which was by us as in fructuous on 119 1997.

4. It was urged by the learned counsel for the petitioners that after revocation of detention order of Ram Veer Singh by the Central Government under Section 14 of the National Security Act, the detention of the petitioners is illegal and they deserve to be set at liberty because detention orders of all the three persons were based on similar solitary ground. In support of this contention, learned counsel for the petitioners placed his reliance on a decision of this Court rendered at Allahabad in the case of Wazir Yadav v. State of UP, 1992 (2) EFR 637; 1993 JIC 182 (All) and on a decision dated 341996 given by a Division Bench of this Court at Lucknow in Writ Petition No. 494 (H/C) of which it has been held that if detention orders in respect of several detenu are based on similar grounds and if detention order one of the detenu is revoked, the detention of other persons becomes illegal and continue to hold them in detention would be violative of Article 14 of the Constitution. Rule of law requires that even executive actions have been to informed by reason and they have to be free from arbitrations. When detention order of Ram Veer Singh has been revoked by the Central Govt., the detention of these two petitioners on the same solitary ground goes against the rule of law. It is also unreasonable to keep them under detention.

5. Since the petition succeed on this ground alone, we do not consider it necessary to adjudicate upon the other two grounds raised by the learned

counsel for the petitioners at the time of arguments. The other two grounds argued by the learned counsel for the petitioners were that there was delay in disposal of representation of the petitioners by the Central Government and extraneous matter was considered by the Detaining Authority while forming its subjective satisfaction before passing the order of detention.

6. In the result, both the petitions succeed and are allowed. The detention orders of both the petitioners are hereby quashed. Petitioners shall be set at liberty unless wanted in some other case.