
(1985) 08 DEL CK 0026

In the Delhi High Court

Case No : Criminal Writ No's. 77 and 78 of 1985

Baligur Rehman

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 12-08-1985

Acts Referred:

Citation : (1987) CriLJ 23 : (1986) 30 DLT 395

Hon'ble Judges : N.N. Goswamy, J;Charanjit Talwar, J

Bench : Division Bench

Judgement

Goswamy, J.—This judgment will also dispose of Criminal Writ No. 78 of 1985 as both these cases involve similar point. The petitioners in these two petitions were detained by virtue of orders passed on 17th November 1984 by Shri K. K. Dwivedi, Joint Secretary of the Government of India under S. 3(1) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 with a view to preventing them from dealing in smuggled goods otherwise than by transporting or concealing or keeping smuggled goods. The petitioners were detained along with two other detenus namely Sumer Chand and Ravi Sharma. The orders of detention in respect of all the four detenus were revoked by a common note put up by Senior Technical Officer on 14th January 1985. The suggestion by the Senior Technical Officer was that since the detaining Authority had failed to furnish copies of relevant documents within the time prescribed the orders had become invalid and were liable to be quashed. Acting on the note put up by the Senior Technical Officer, Shri K. K. Dwivedi agreed to revoke the detention orders in respect of all the four detenus by merely putting his signatures on the said note. Thus the orders of detention in respect of the two detenus were revoked by Mr. K. K. Dwivedi himself. On the same date i.e. on the 14th January 1985 fresh orders of detention were passed in respect of the two petitioners in the present petitions. Those orders have been challenged on diverse grounds.

2. During the course of arguments it was contended that the orders of detention

are liable to be quashed for the reasons stated in our judgment delivered in Criminal Writ No. 92 of 1985 on August 9, 1985. That writ petition related to the detention of Sumer Chand. We have held in that case that the order of revocation passed by Shri K. K. Dwivedi could not be considered to be one under S. 11(1) of the Act and as such no fresh detention orders could be made under S. 11(2) of the Act. Reliance was placed by us on the judgment of their Lordships of the Supreme Court in Ibrahim Bachu Bafan Vs. State of Gujarat and Ors, .

3. The learned counsel for the parties agree that the present petitions are squarely covered by the decision in Criminal Writ No. 92 of 1985. Therefore, for the reasons recorded in the said judgment, we quash the impugned orders of detention and direct that the petitioners be set at liberty forthwith unless they are required to be detained by any other valid order of competent Court or Authority.

4. Petitions allowed.