
(1979) 08 PAT CK 0007
In the Patna High Court
Case No : Criminal W.J.C. No. 55 of 1979

Gaya Rai and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 30-08-1979

Acts Referred:

Arms Act, 1959 — Section 25, 26, 27, 28, 29
Constitution of India, 1950 — Article 19, 19(1)(d), 22, 22(4), 50
Criminal Procedure Code, 1973 (CrPC) — Section 107, 133, 144, 145, 147

Citation : (1980) PLJR 73

Hon'ble Judges : Satyeshwar Roy, J; Nagendra Prasad Singh, J

Bench : Division Bench

Advocate : Balbhadra Prasad Singh, Basudeva Prasad, Prabha Shankar Mishra, T.K. Jha, Ashwini Kumar, J.N. Sahay, C.B. Belwariar, J.P. Shukla and Shrichand Keshava, for the Appellant; K.D. Chatterjee, A.G., R.B. Mahto, G.A., R.S. Roy, S.C. 3, Chuni Lall, G.P. IV, Vinod Chandra, G.P. Jaiswal, Vijay Kumar Bhagat, Jawahardhari Singh, Santosh Kumar Sinha, O.P. Grewal and Mrs. Neelima Thakur, for the Respondent

Final Decision : Dismissed

Judgement

Nagendra Prasad Singh, J.—Petitioners in these writ applications have questioned the validity of the Bihar Control of Climes Ordinance, 1978 (hereinafter referred to as "the Ordinance") and a prayer has been made on their behalf for quashing the notices issued to them by the respective District Magistrates in purported exercise of the powers conferred on them by Sub-section (1) of Section 3 of the said Ordinance. According to the petitioners, as the Ordinance itself is ultra vires, the notices issued to them amount to exercise of power without any authority in law. As common question of law is involved in all these writ applications they were heard together and are being disposed of by a common judgment. The preamble of the said Ordinance states the object thereof "to make special provisions for the control and suppression of antisocial elements with a view to maintenance of public order". "Anti-social element" has been defined u/s 2(c) as

follows:

(c) "Anti-Social element" means a person who--

(i) either by himself or as a member of or leader of a gang, habitually commits, or attempts to commit or abets the commission of offences, punishable under Chapter XVI or Chapter XVII of the Indian Penal Code;

(ii) habitually commits or abets the commission of offences, under the Suppression of immoral Traffic in Women and Girls Act, 1956 ; or

(iii) Who by words or otherwise promotes or attempts to promote, on grounds of religion, race, language caste or community or any other grounds whatsoever, feelings of enmity or hatred between different religions, racial or language groups or caste or communities; or

(iv) has been found habitually passing indecent remarks to, or teasing women or girls ; or

(v) who has been convicted of an offence u/s 25, 26, 27, 28 or 29 of the Arms Act of 1959.

2. Sub-section (1) of Section 3 provides that when it appears to the District Magistrate (a) that any person is anti-social element, and (b) that his movements or acts in the district or any part thereof are causing or are calculated to cause alarm, danger or harm to person or property ; or that there are reasonable grounds for believing that he is engaged in commission of any offence punishable under Chapter XVI or Chapter XVII of the Indian Penal Code or certain other acts mentioned therein or abetment of such offences, he shall by notice in writing inform him of the general nature of the material allegations against him and shall give him a reasonable opportunity of tendering an explanation against them. In view of Sub-section (2) of Section 3, the person against whom a notice is issued has a right to consult and be defended by a counsel and has to be given reasonable opportunity of examining himself or examining any other witness. Under Sub-section (3) of Section 3, the District Magistrate, on being satisfied that the conditions specified in Sub-section (1) of Section 3 exist, he may by order in writing.

(a) direct him to remove himself outside the district or part thereof, as the case may be, by such route; If any, and within such time as may be specified in the order and to resist from entering the district on the specified part thereof; until, the expiry of such period, not exceeding six months as may be specified in the order;

(b)(i) require such person to notify his movements, or to report himself; or to do both, in such manner, at such time and to such authority or person as may be specified in the order;

(ii) prohibit or restrict possession or use by him of any such article as may be specified in the order;

(iii) direct him otherwise to conduct himself in such manner as may be specified in the order;

until the expiry of such period, not exceeding six months; as may be specified in the order.

Sub-section (4) of Section 3 vests power in the District Magistrate under certain contingency to issue warrant of arrest against the person concerned during the pendency of the enquiry, who may be released on executing bond or may be detained in custody until the enquiry is concluded. Any order passed by the District Magistrate is appealable u/s 6 to the Commissioner Section 10 makes punishable with rigorous imprisonment for a term which may extend to three years and with fine not exceeding Rs. 5000/- if any person contravenes any order made u/s 3.

3. According to the petitioners; the provisions of the Ordinance purport to encroach in an arbitrary and unreasonable manner upon the fundamental rights guaranteed to a citizen under Article 19 of the Constitution, and; as such; ultra vires. It cannot be disputed that the provisions of the Act amount to restrictions on the right to move freely and to reside and settle throughout or any part of territory of India guaranteed under Article 19(1)(d) and (e) of the Constitution as such unless they are held to be reasonable restrictions in the interest of general public; they shall be void. The preamble of the Ordinance says in explicit terms that the object of the Ordinance is to make special provisions for controlling and suppression of anti-social elements with a view to maintenance of public order. Thus, the object is a laudable one as it purports to curb the rights of a few in order to protect the interest of public in general. But it has to be examined as to whether the rights of a citizen have been curbed to, an extent, which is not required for achieving the object in question.

4. Counsel appearing for the petitioners in different writ applications first attacked the definition of "anti-social element" itself and it was urged that it has left a lot of scope for misuse of power at the hands of the executive. According to Mr. Basudeva Prasad, Clauses (i) and (ii) of Section 2 (c) aforesaid should be applicable only in respect of persons against whom there are verdicts of guilt after the conclusion of trials. According to him, merely on the basis of institution of cases a person should not be labelled as habitual criminal. In my opinion, it is difficult to accept this contention. It is unthinkable that necessity for taking action u/s 3 of the Ordinance shall arise after a person has been held guilty and convicted in cases more than one because in such a situation he shall be undergoing imprisonment awarded against him and there is no question of his movement causing alarm, danger or harm to person or property. If this contention is accepted, then it has to be held that the provisions are applicable to only few cases where veteran criminals after undergoing the sentences of imprisonment awarded in different trials, are causing alarm, danger or harm to person or property. In my opinion, the District Magistrate has to form an opinion, that a person is a habitual criminal, and, as such, anti-social element on basis of

judgments of convictions or on basis of investigations in different cases lodged against him or on basis of some other reliable information.

5. It was then submitted that clauses (iii) and (iv) of Section 2(c) quoted above, are also very vague and without any guideline. It is a matter of common knowledge how some persons by words or otherwise promote or attempt to promote feeling of enmity or hatred between different religion and language group or caste or community. Similarly, what is meant by habitual passing of indecent remarks to woman or girls is not difficult to comprehend, in my view, the definition of anti-social element does not suffer from any vagueness and any person to whom notice is issued can effectively deny those allegations. Sub-section (1) of Section 3 makes it explicit that notice is not to be issued merely because a person is an anti-social element ; the other condition mentioned in Clause (b) of that Sub-section has also to be fulfilled. In other words, if it appears that the movements or acts of any anti-social element in the district or any part thereof are causing or are calculated to cause alarm; danger or harm to person or property, then only notice can be issued by the District Magistrate. The person concerned can show that the allegations under both heads are unfounded.

6. It was then submitted that Sub-section (2) of Section 3 prescribes a peculiar procedure unknown to the Criminal Jurisprudence because it is the person to whom notice has been issued has to examine himself or examine other witnesses in support of his explanation that he is neither an anti-social element nor his movements or acts are causing alarm, danger or harm to person or property instead the State first proving the allegations made in the notice. This argument has been advanced on the assumption that the proceeding before the District Magistrate is judicial one. In this connection, it was also submitted that the District Magistrate while exercising the power u/s 3 shall be deemed to be a court. Reference in this connection was made to the case of (1) the The State of Uttar Pradesh Vs. Kaushaliya and Others, where a question had arisen as to whether a Magistrate exercising power under the Suppression of immoral Traffic in Women and Gills Act, 1956 was a court. Under that Act the Magistrate concerned could issue notice to any woman or girl and after giving her an opportunity to adduce evidence on the question whether she is a prostitute and whether in the interest of general public she should be required to remove herself from the place, he had to pass an order directing such girl or woman to remove herself on a finding that she was a prostitute. It was held that such Magistrate was a court. The power of the District Magistrate under this act is very similar to the aforesaid Act. The proceeding before him is a judicial one and any finding recorded by him is binding subject to appeal. It has a civil consequence because a person can be directed to remove himself beyond the district or any part thereof. As such there should not be any difficulty in holding that while exercising power u/s 3 he is acting as a court. But, that does not mean that the procedure prescribed for a criminal trial is a must. In the aforesaid case of the The State of Uttar Pradesh Vs. Kaushaliya and Others, which has been relied upon on behalf of the petitioners, itself, the Supreme Court held a similar

procedure to be valid. It was also urged that Sub-section (2) of Section 3 does not provide that the person to whom the notice is given can cross-examine the person or persons who have supplied the information to the District Magistrate regarding his activities. Similar procedure had been prescribed in the two Bombay Police Acts which were considered by the Supreme Court in the cases of (2) Gurbachan Singh Vs. The State of Bombay and Another, and (3) Hari Khamu Gawali Vs. The Deputy Commissioner of Police, Bombay and Another, . This very argument was repelled by saying in the case of Gurbachan Singh (Supra):--

In our opinion, this by itself would not make the procedure unreasonable having regard to the avowed intention of the legislature in making the enactment. This law is certainly an extraordinary one and has been made only to meet those exceptional cases where no witnesses for fear of violence to their person or property are willing to depose publicly against certain bad character whose presence in certain areas constitute a menace to the safety of the public residing therein. This object would be wholly defeated if a right to confront or cross-examine these witnesses was given to the suspect. The power to initiate proceedings under the Act has been vested in a very high and responsible officer and he is expected to act with caution and impartiality while discharging his duties under the Act.

In the case of Hari Khamu Gawali (supra) it was observed:--

But in the very nature of things it could not have been otherwise. The grounds available to an examinee had necessarily to be very limited in their scope, because if evidence were available which could be adduced in public, such a person could be dealt with under the preventive sections of the Code of Criminal Procedure...

7. The petitioners seriously challenged the validity of Sub-section (3) of Section 3 which vests power in the District Magistrate to pass final orders after the conclusion of the enquiry. According to them, these provisions per se amount to unreasonable restrictions within the meaning of Article 19 of the Constitution, specially when such powers have been vested in an executive authority. It cannot be denied that the powers under Sub-section (3) of Section 3 are extraordinary inasmuch as the District Magistrate can direct a person to remove himself outside the district upto a period of six months which can be extended for reasons to be recorded, in view of Section 5 of the Ordinance, upto two years in aggregate. However, it is well settled that whether a restriction is reasonable or not has to be examined in the light of the object it purports to achieve. It is a matter of common experience that a few individuals become villain of peace and menace to society in general; they thrive on miseries of others and none can dare to depose against them. Such extraordinary situations sometimes call for extraordinary legislations. In the case of Gurbachan Singh Vs. The State of Bombay and Another, aforesaid a similar provision of City of Bombay Police Act came up for consideration before the Supreme Court. Section 27(1) of that Act provided

Whenever it shall appear to the Commissioner of Police,

(a) that the movements or acts of any person in the Greater Bombay are causing or calculated to cause alarm, danger or harm to person or property, or that there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence, or an offence punishable under Chapters XII, XVI of XVII of Indian Penal Code, or in the abetment of any such offence, and when in the opinion of the Commissioner witnesses are not willing to come forward to give evidence to public against such person by reason of apprehension on their part as regards the safety of their person or property,

(b) the Commissioner of Police may, by an order in writing duly served on him direct such person to remove himself outside the State or to such place within the State and by such route and within such time as the Commissioner of the Police shall prescribe and not to enter the State or as the case may be the Greater Bombay. While holding the restrictions to be reasonable, it was observed:

There can be no doubt that the provision of Section 27 (1) of the Bombay Act was made in the interest of the general public and to protect them against dangerous and bad characters whose presence in a particular locality may jeopardize the peace and safety of the citizens. The question, therefore, is whether the restrictions that this law impose upon the rights of free movement of a citizen, come within the purr view of clause 5 of Article 19 of the Constitution; or in other words whether the restrictions are reasonable?.....

.....Having regard to the class of cases to which this sub-section applies and the menace which an externment order passed under it is intended to avert, it is difficult to say that this provision is unreasonable.

8. In the case of Hari Khemu Gawali Vs. The Deputy Commissioner of Police, Bombay and Another, , aforesaid, against the provisions regarding passing of externment orders under the Bombay Police Act were considered, and it was held:

The impugned Section 57 is an instance of the State taking preventive measures in the interest of the public and for safeguarding individual's rights In doing so, the State may have to curb an individual's activities and put fetters on his complete freedom of movement and residence; in order that the greatest good of the greatest number may be conserved.

9. In the case of (4) Raja Sukhnandan Vs. State of U.P. and Another, , a Bench of Allahabad High Court had to consider provisions very similar to that of the present Ordinance and applying the well known tests. It was held that the restriction cannot be held to be unreasonable.

10. On behalf of the petitioners; however, reliance was placed on the case of The State of Madhya Pradesh and Another Vs. Baldeo Prasad, where the Supreme Court had to consider the been defined. It was pointed out by the Supreme Court

that the said definition was absolutely vague and there being no provision for giving any opportunity to such a person to show that he was not a goonda was a serious infirmity. Here, "anti-social element" has been properly defined and the person concerned can show that he is not an antipodal element as such, the aforesaid decision is of no help to the petitioners.

11. Reference in this connection was also made on behalf of the petitioners to the case of (5) State of Madhya Pradesh and Another Vs. Thakur Bharat Singh, . There Section 3 of the M.P. Public Security Act, 1959 provided that if the State Government or the District Magistrate was satisfied with respect to any person that he was acting or is likely to get in a manner prejudicial to the security of the State or maintenance of public order the State Government or the District Magistrate may make an order:--

(a) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or persons as may be specified therein, he shall not be in any such area or place in Madhya Pradesh as may be specified in the order,

(b) requiring him to reside or remain in such place or within such area in Madhya Pradesh as may be specified in the order and if he is not already there to proceed to the place or area within such time as may be specified in the order;

(c) requiring him to notify his movements or to report himself or both to notify his movements and report himself in such manner, at such times and to such authority or person, as may be specified in the order;

The High Court held that Clause (b) aforesaid was ultra vires, but upheld clauses (a) and (c). The said view was approved by the Supreme Court saying that clause (b) required a person to leave his hearth and home and to live at another place selected by the District Magistrate which was per se unreasonable. I do not know how this helps the petitioners. There is no provision similar to clause (b) of the M.P. Public Security Act in the present Ordinance. Rather clause (a) and (b) (1) of Sub-section (3) of Section 3 of the Ordinance are more or less similar to clauses (a) and (c) of that Act which were held to be valid by the Supreme Court.

12. On behalf of the petitioner, counsel in different writ applications laid much stress to the fact that in clause (a) of Sub-section (3) of Section 3 of the Ordinance, the District Magistrate may direct even the route through which the person concerned has to remove himself outside the district or part thereof saying that it makes the whole provisions unreasonable, I am not inclined to accept this contention. Perhaps, that provision has been made keeping in view that at the relevant time any explosive situation may exist in any particular part of the area through which such person should not pass. From the case of Gurbachan Singh (supra) it will appear that in the Bombay Act a similar provision regarding the removal of the person through such route as may be specified in the order, was held to be valid.

13. Regarding Sub-clauses (ii) and (iii) of clause (b) of Sub-section (3) of Section 3 of the Ordinance, it was urged that under this the District Magistrate may restrict possession of any article including any house-hold articles or he may direct as to how that person should conduct in the society, and, as such, power has been vested without any proper guidelines. On first impression this appears to be correct, but if that provision is read along with the Rules framed under the Ordinance, specially Rule 6 of the Bihar Control of Crimes Rules, 1978 (hereinafter referred to as the Rules) the prohibited article means Lathi, fire-arm etc. as mentioned in clause (b) of Rule 6. Similarly, the prohibited conduct has to be co-related as specified in Clause (c) of Rule 6, which says that such person shall not be present within a specified distance from any specific educational institution, religious place etc.

14. It was also submitted that in some cases the District Magistrate may pass orders simultaneously under clause (a) and clause (b) of Sub-section (3) of Section 3. In my view there is no question of passing orders under both the clauses because once the person concerned is externed out of the area, the question of placing any further restrictions on his movements or possessing objectionable articles does not arise otherwise it will amount to exercise of power by the District Magistrate of one district beyond the territorial limit of his own district. Similar view was expressed in the case of Raja Sukhnandan (*supra*).

15. The validity of Sub-section (4) of Section 3 of the Ordinance was attacked by counsel appearing in different applications saying that an extraordinary power has been vested in the District Magistrate without any guidelines. Sub-section (4) of Section 3 of the Ordinance is as follows:--

Whenever it appears to the District Magistrate, upon report of a Police Officer not below the rank of a Deputy Superintendent of Police or upon other information that there is reason to fear that activities of anti-social elements cannot be prevented otherwise than by the immediate arrest of such persons the District Magistrate may at any time issue a warrant of arrest against such persons who may be released on executing a bond, with or without sureties for maintaining good behaviour of may be detained in custody until the enquiry is concluded.

According to the learned counsel, in view of this Sub-section (4) the District Magistrate may detain a person in custody during the pendency of the enquiry even if he is prepared to execute bond. Mr. Prabha Shanker Mishra further submitted that the District Magistrate is not enjoined by law either to record reason or to furnish the persons concerned the grounds for his detention which is in direct conflict with Article 22 of the Constitution, as such *ultra vires*. In my opinion, if the words "or may be detained in custody until the enquiry is concluded" are said to mean that it is within the discretion of the District Magistrate to release the person on bond or to keep him in custody, then there is substance in the contention raised by the learned counsel. It will amount to detaining a person in custody without informing him the reasons for his detention. No condition or guidelines have been prescribed for exercise of this

power. However, learned Advocate General appearing on behalf of the State, perhaps to save the provision from challenge, submitted that "or" in this sub-section has to be read as "in default thereof" meaning thereby that if the person concerned is prepared to execute bond with or without surety as directed by the District Magistrate, he shall be released, but if he is not prepared to execute bond as directed by the District Magistrate, he may be detained in custody until the enquiry is concluded. On proper reading of Sub-section (4), in my view, the power of detention in custody, is to be exercised only in such cases where the person against whom a warrant of arrest has been issued, is not prepared to execute a bond.

16. Mr. Balbhadra Prasad Singh, learned counsel appearing in one of the writ applications, submitted that such powers should not have been vested in an Executive Magistrate and it was against the wishes of the framers of the Constitution as incorporated in Article 50 of the Constitution which provides that State shall take steps to separate judiciary from executive. According to the learned counsel, this offends the basic framework of the Constitution. He further urged that the District Magistrate being incharge of the law and order can never be a judge in its true sense, of the proceeding pending before him. Reference in this connection was also made to the case of (6) Chandra Mohan Vs. State of Uttar Pradesh and Others, where it was pointed out that the makers of the Constitution wanted to secure the independence of judiciary from the executive. Article 50 is under the chapter "Directive principles of State Policy". In my opinion, merely because the power has been vested in the District Magistrate; the Ordinance cannot be held to be invalid. Under different enactments; executive magistrates do exercise quasi judicial power. In the Code of Criminal Procedure, 1973 itself the proceedings under Sections 107, 133, 144, 145 and 147 and under certain other sections are to be initiated and disposed of by the executive magistrate. The exercise of the power under the Ordinance in question is linked with maintenance of public order and control and suppression of antisocial elements; as such there is no harm if it is vested in executive officer of a high rank of District Magistrate. However, I must observe, as was pointed out even by the Supreme Court in several pronouncements, that one of the purpose for vesting power in high ranking responsible officers was to safeguard a citizen from any possible misuse thereof. It is always expected that such extraordinary power under the Ordinance where many exceptions have been made to general procedural law as well as to the laws of evidence, are exercised for achieving the object of the Act with due care and caution. In cases where the person concerned feels that justice has not been given to him, he can approach the appellate forum or, thereafter, even the writ jurisdiction of this Court, if the order has been passed in contravention of the provisions of the Ordinance or against the principles of natural justice.

17. The petitioners, then challenged the notices issued to different petitioners saying that even if it is assumed that the provisions of the Ordinance are intra vires, notices do not conform to the requirement of Sub-section (1) of Section 3

Inasmuch as either they are vague or they recite incidents on the basis of which it would not have appeared to the District Magistrates concerned that the petitioners are anti-social elements and that their movements or acts are causing or calculated to cause alarm, danger or harm to person or property. In my opinion, petitioners should first submit their written statements and explanations before the District Magistrate concerned, and, if necessary; examine themselves or witnesses on their behalf in support of their explanation. In my view, it will not be a proper exercise of the discretion, while exercising writ jurisdiction to examine the correctness or otherwise of those allegations before the District Magistrates concerned had opportunity to apply their judicial mind. The matter will be different if it appears that any notice has been issued mechanically or even if the allegations are accepted on their face value they do not conform to the requirement of Sub-section (1) of Section 3. So far as these cases are concerned, general nature of material allegations have been mentioned in the impugned notices. They may be right, they may be wrong, that has to be first examined by the District Magistrates before whom the petitioners should submit their explanations.

18. In my view, there is no merit in any of the writ applications, and they are, accordingly, dismissed. The concerned District Magistrates shall dispose of the proceedings pending before them as early as possible in accordance with law.

Satyeshar Roy, J.

19. I had the advantage of going through the judgment prepared by my learned brother, N.P. Singh, J., wherein all the points raised on behalf of the petitioners have been dealt with. However, I may add a few words of my own.

20. It was submitted that although Section 3(4) of the Ordinance empowers the District Magistrates to arrest and detain a person, safeguards provided in Article 22 of the Constitution of India have not been provided. In developing this argument it was contended that the person so arrested and detained will have no opportunity to know the ground for his arrest. There is no provision for constituting the Advisory Board as provided in Clause (4) of Article 22 of the Constitution of India. Sub-section (4) of Section 3 of the Ordinance has been quoted in the judgment by my learned brother Singh J. From the perusal of that Sub-section it appears that the detention of an anti-social element will arise only when he defaults in executing a bond with or without sureties. Similar argument was advanced in the case of Hari Khamu Gawali (Supra) wherein their Lordships of the Supreme Court considered the validity of Section 57 of Bombay Police Act, 1951 and observed as follows:--

The very fact that the Constitution in Article 22(4) has made specific provision for an Advisory Board consisting of persons of stated qualifications with reference to the law for preventive of detention but has made no such specific provision in Article 19 would answer this contention.

Therefore, there is no substance in this contention made on behalf of the

petitioners.

21. Mr. Balbhadra Prasad Singh, learned counsel appearing in one of the cases submitted that the provision of Section 3(4) of the Ordinance wherein the District Magistrate has been empowered to lay down route by which the anti-social element must remove himself is in fact a provision whereby the District Magistrate have been empowered to fix the place where the anti-social element shall reside or remain. He contended that it is true that there is no express provision in the Ordinance which empowers the District Magistrate to direct the anti-social element to reside in a particular place, but the District Magistrate has been indirectly given power to fix up the place where the anti-social elements is to reside or to remain by laying down the route. In my opinion, there is no substance in this argument. There may be situation when anti-social element, if allowed to use a particular route, while he removes himself from the District or part thereof as the case may be, may further aggravate the situation. The anti-social element must follow that route and thereafter he shall be entitled to reside or remain at such place as he may decide other than the place from where he has been asked to remove himself.

22. It was not contended, and rightly so, that the reasonable-restrictions enumerated in Clause (1) of Article 19 of the Constitution will not include externment from a particular area. In considering the arguments advanced on behalf of the petitioners the guide lines laid down by the Supreme Court in the case of (7) the State of Madras Vs. V.G. Row, which has been repeatedly upheld by the Supreme Court in all subsequent decisions may be usefully quoted. It runs as follows:

It is important in this context to bear in mind that the test of reasonableness, wherever prescribed should be applied to each individual statute impugned, and no abstract standard, or general pattern of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed; the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict.

The observations of the Supreme Court in the case of Tarachand (Supra) may also be usefully quoted, which runs as follows:

It is necessary to emphasise that the principle which underlies the structure of the rights guaranteed under Article 19 of the Constitution is the principle of balancing of the need for individual liberty with the need for social control in order that the freedoms guaranteed to the individual subserve the larger public interests. It would follow that the reasonableness of the restrictions imposed under the impugned Act would have to be judged by the magnitude of the evil which it is the purpose of the restraints to curb on eliminate.

Applying the guide lines so laid down by the Supreme Court to the present case I agree with my learned Brother, Singh, J. that there is no merit in any of the writ

applications and they are accordingly dismissed. As observed by my learned brother the learned District Magistrates concerned shall now dispose of the proceedings pending before them in accordance with law.