

(1986) 09 SC CK 0038

In the Supreme Court Of India

Case No : Writ Petition (Civil) No. 11067 Of 1984

Ishtiaq Hussain Farooqui

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 29-09-1986

Acts Referred:

Constitution of India, 1950 — Article 25, 26, 32
Criminal Procedure Code, 1973 (CrPC) — Section 144

Citation : (1988) 12 ACR 129 : AIR 1988 SC 93 : (1988) CriLJ 189 : (1986) SCC 531 Supp : (1986) 1 SCC 531 Supp

Hon'ble Judges : B. C. Ray, J;A. N. Sen, J

Bench : Division Bench

Final Decision : dismissed

Judgement

A.P. Sen, J.—We fail to appreciate the occasion for filing such a petition. The maintenance of law and order is a function of the District Magistrate and we have every reason to believe that the District Magistrate of Lucknow with a view to avoid any possible breach of peace would take the necessary steps well in advance for the purpose of maintaining public order which would be in the larger interests of the society. The exercise of fundamental rights under Articles 25 and 26 of the Constitution is not an absolute right but must yield or give way to maintenance of public order as laid down by this Court in Gulam Abbas and Others Vs. State of Uttar Pradesh and Others, . The principles are well settled and it is but for the District Magistrate to exercise his powers in consonance with the provisions of Section 144 of the Criminal P.C. 1973. This petition under Article 32 of the Constitution appears to be wholly misconceived.

2. The petition is accordingly dismissed. The petitioner shall be at liberty to move the District Magistrate, Lucknow to take appropriate measures well in advance that there are no such incidents.