
(1993) 09 P&H CK 0082

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 150 of 1993

Kimiti Lal Sethi

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 07-09-1993

Acts Referred:

Citation : (1994) 1 AICLR 128 : (1994) 1 RCR(Criminal) 520

Hon'ble Judges : H.S.Brar, J

Advocate : D. D. Sharma, S. S. Rana, Advocates for appearing Parties

Judgement

Harphul Singh Brar, J.

1. In this petition under Articles 226/227 of the Constitution of India, an order dated September 17, 1992 (annexed as Annexure P1 with the petition) passed for detention of the petitioner under Section 3(1) read with Section 2(F) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 has been challenged on various grounds.

2. A preliminary objection has been raised by the learned counsel for the Union of India, contending that this Court has got no jurisdiction to entertain this petition under Articles 226/227 of the Constitution of India, for the simple reason that no cause of action has arisen within the jurisdiction of this Court on the basis of which the detention order under attack has been passed. He further contends that the offence was committed by the petitioner in Delhi and the detention order, dated September 17, 1992, Annexure P1, passed by the Administrator of the National Capital Territory of Delhi, Home Department, 5, Sham Nath Marg, Delhi had nothing to do with any of the activities of the petitioner in Punjab. He also asserts his plea by stating that mere residence of the petitioner in Punjab does not entitle him to invoke the extraordinary jurisdiction of this Court for quashing the detention order, Annexure P1.

3. On the other hand, the learned counsel for the petitioner vehemently contends that this Court has got the jurisdiction to entertain this petition as a part of cause

of action has arisen in the territorial jurisdiction of this Court. According to the learned counsel, the Customs Authority had raided the premises of the petitioner on March 29 and 31, 1993 to arrest him. He further contends that in the complaint filed under Section 132 read with Section 135 of the Customs Act, the residence of the petitioner is shown to be at Tarn Taran, District Amritsar. The main emphasis, thus, laid by the learned counsel to invoke the jurisdiction of this Court, is on the basis of residence of the petitioner in District Amritsar, which is in Punjab. He has placed reliance in this connection on a decision of this Court in Criminal Writ Petition No. 1375 of 1988 (Malook Singh alias Master v. Union of India and another, decided on December 12, 1988) and also cited various other authorities, which are of no help to him at all.

4. Reply has been filed on behalf of the respondent Union of India by Mr. M. U. Siddiqui, Deputy Secretary, Ministry of Home, Government of National Capital Territory Home (Phase II) Department, 5, Sham Nath Marg, New Delhi, by way of affidavit. It is stated therein that the petitioner was arrested by the Customs Staff at I.G.I. Air Port, New Delhi on March 31, 1992 and Foreign Currency was recovered from Condoms concealed in his rectum. The Customs Authorities of the I.G.I. Air Port never raided his house on March 29 and 31, 1993 at Amritsar as alleged in the petition.

5. After considering the arguments advanced at the bar and the circumstances in their entirety, I find it as a fact that the alleged offence was committed by the petitioner in Delhi and he was arrested by the Customs Staff at I.G.I. Air Port, New Delhi on March 31, 1992 when Foreign Currency was recovered from his possession. The raiding of the premises of the petitioner in Punjab in connection with the passing of the detention order has also been denied in the reply. Neither any record has been shown to me nor any other material has been brought to my notice by the learned counsel for the petitioner showing that the detention order was passed on the basis of any prejudicial activity committed by the petitioner in the territorial jurisdiction of this Court. On careful consideration, the preliminary objection raised by the learned counsel for the Union of India appears to be well founded, and the same is sustained.

6. It may be pointed out here that mere residence of the petitioner in Punjab does not entitle him to invoke the jurisdiction of this Court. No part of the prejudicial activity which may have taken place in any area under the jurisdiction of this Court has been mentioned in the grounds of this petition. Simply because the petitioner is a resident of Tarn Taran, District Amritsar which is in Punjab, does not invest this Court with any jurisdiction. It is not disputed that the petitioner was arrested by the Customs Staff at New Delhi and the criminal case against him is being proceeded with there. It is, thus, nowhere proved which could show that even a part of cause of action has arisen in this case under the territorial jurisdiction of this Court. *Manjit Singh Dhingra v. Union of India and others*, 1987(2) Recent Criminal Reports 115 : I.L.R. (1987) 2 Punjab and Haryana 61 and *Gurdeep Kaur v. The Union of India and others*, 1990(2) Recent

C.R. 20 are the two cases which are exactly on the point and may be usefully referred to in this context.

7. In view of my observations made above, I find that this Court has no jurisdiction. The petition is incompetent and is dismissed on this short ground.