
(1984) 03 PAT CK 0013

In the Patna High Court

Case No : Criminal Writ Jurisdiction case No. 410 of 1983

Mahendra Singh

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 20-03-1984

Acts Referred:

Bihar Control of Crimes Act, 1981 — Section 12(2), 17

Citation : (1984) PLJR 636

Hon'ble Judges : R.N. Thakur, J; Anand Prasad Sinha, J

Bench : Division Bench

Advocate : Pramod Singh and R.N. Maharaj, for the Appellant; Ramanand Kumar, J.C. to S.C. II, for the Respondent

Judgement

Anand Prasad Sinha, J.—This application is directed against the order dated 9.9.1983 having been passed by the District Magistrate, Begusarai under sub-section (2) of section 12 of the Bihar Control of Crimes Act (hereinafter to be referred to as the Act) for the detention of the Petitioner. A copy of the said order is Annexure-1 to this writ application. The grounds in pursuance of section 17 of the Act for the detention of the petitioner are contained in Annexure-2 dated 9.9.1983 and that had been served upon the petitioner. Subsequently, the State Government had approved the order of detention on 17.9.1983 Vide Annexure-3 to this writ application. Thereafter the order of detention has been confirmed by the State Government by order dated 29.10.1983 which is Annexure-4 to this application on receipt of the report of the Advisory Board. Learned counsel appearing on behalf of the petitioner has submitted that as a matter of fact the petitioner was in jail at the relevant period when the impugned order of detention has been passed and that being so, the detaining authority had not applied its mind as there could not be any question of public order on account of the petitioner. There is absolutely no merit in this contention. The subjective satisfaction of the detaining authority is not dependant upon the fact as to whether the person sought to be detained had been in jail or outside jail. If the conduct of the detained person is such that on consideration of it, it could

transpire that the person concerned has been responsible for creating an atmosphere of insecurity, instability and wide spread disturbances in the settled way of life of the public at large, it will be deemed to be sufficient that such person be detained irrespective of the fact that he had been already in jail. In the instant case, it would appear that the activity and conduct of the petitioner have been succeedingly anti-social in the manner that it had become a part of his life to commit murder and keep illegal arms. He had also indulged into excessive high handedness in disturbing the normal irrigating process of the locality and naturally that must have been a wide spread impact upon the agricultural operation and if there be such disturbances, it affects both social and economical life of the public at large of the locality. From the grounds further it appears that he had been indulging into highway robbery, loot and creating a state of terror by using arm and that is enough in itself to indicate that there has been general disturbances for all times in the settled way of life of the people.

2. Under the circumstances, the grounds mentioned are sufficient to indicate that the petitioner has been an anti-social element and his conduct and activities fully warranted action under the Act for his detention.

3. Another contention raised on behalf of the petitioner is that from the grounds it appears that the petitioner was involved in substantive cases and that being so, that cannot be construed to be an element of anti-social and thus the provisions of the Act is not attracted.

4. There is no meat in this contention even. From the discussions made above, it would appear that the accumulative effect of the conduct of any person is the impression created on mind as to whether one has become so anti-social whose detention is warranted under the Act. It is in the case of the petitioners.

5. The grounds mentioned above has already been indicated and discussed above. Therefore, a simple look at the grounds will create an impression that the conduct of the petitioner has travelled beyond the limits of an individual act purely confined to same offences under the purview of the Indian Penal Code and it has reached to a stage of exceedingly excessive regular criminal conduct warranting curtailment of such conduct for maintenance of public order. In the result, I find no merit in this application which fails and is dismissed.