
(2023) 11 J&K CK 0023

In the Jammu And Kashmir High Court

Case No : Latters Patent Appeal No. 171 Of 2023, Civil Miscellaneous No. 5793 Of 2023

Ranjeet Singh

APPELLANT

Vs

UT Of J&K And Others

RESPONDENT

Date of Decision : 09-11-2023

Acts Referred:

Citation : (2023) 11 J&K CK 0023

Hon'ble Judges : Tashi Rabstan, J; Mohan Lal, J

Bench : Division Bench

Advocate : Rakesh Chargoitra, Pawan Dev Singh

Final Decision : Dismissed

Judgement

Tashi Rabstan, J

1. This appeal is directed against the judgment dated 14.09.2023 delivered by the learned Single Judge in WP(Crl) No.30/2023, whereby the learned Single Judge, while dismissing the petition, justified the action of the detaining authority in passing the order of detention against the writ petitioner being a repeat offender of similar nature of crimes.

2. The case as set up by the petitioner-appellant is that while slapping preventive detention against him, respondent No.3 did not adhere to the constitutional safeguards available to him under the Constitution of India as well as the J&K Public Safety Act, 1978. It is further contended that the learned Single Judge too wrongly dismissed the writ petition filed by him challenging his detention order dated 14.03.2023. Hence, the present appeal.

3. Heard learned counsel appearing for the parties, considered their rival contentions and also perused the appeal file.

4. Although grounds of detention are by and large and to some extent can be said to be replica of dossier, yet one cannot lose sight of the fact that as many as

five FIRs have been lodged against the petitioner-appellant under various sections of the IPC which made basis to book him under the Public Safety Act so as to prevent him from acting in a manner similar to his past acts or engaging in activities prejudicial to the security of the State or maintenance of public order. Further, the sponsoring authority has not only supplied the material, viz. dossier, containing gist of the activities of the detenu, but has also supplied the material in the shape of FIRs. All this material was before the detaining authority when it arrived at subjective satisfaction that activities of the detenu were prejudicial to the maintenance of public order and requires preventive detention of detenu. Therefore, it cannot be said that there has been non-application of mind on the part of detaining authority while passing the order of detention. The aim of preventive detention is to stop the illegal activities of an individual which otherwise cannot be stopped when such an individual creates havoc in the society which leads to public disorder, peace, stability and in certain cases also raises alarm bells regarding the nation's unity and integrity.

5. Further, a perusal of the appeal file reveals that the petitioner-appellant under his signatures had received a total of 99 leaves including copy of detention order, grounds of detention, notice of detention, copies of FIRs and other related documents. In the execution report, which bears the signatures of the petitioner-appellant, it has been clearly indicated that the grounds of detention were explained to the petitioner-appellant in hindi/dogri languages. The petitioner-detenu by way of notice of detention was also informed about his right to make a representation to the Government as well as to the detaining authority against his detention order. Therefore, the contention of petitioner-appellant that the material documents were not read over and explained to him in Hindi language and that he was not informed about his right to make a representation to the Government is not sustainable.

6. The learned Single Judge while dismissing the petition has clearly mentioned that already five FIRs have been lodged against the petitioner-appellant in the last five years which relate to the offences of rioting, attempt to murder, Arms Act etc. Further, the essential concept of preventive detention is that the detention of a person is not to punish him for something he has done, but to prevent him from repeating the illegal activities.

7. In view of the facts of present case, the judgments relied upon by the learned counsel for petitioner-appellants are clearly distinguishable and are not applicable to the present case.

8. Viewed thus, we do not find any legal infirmity in the judgment passed by the learned Single Judge. Accordingly, the appeal fails; the same is dismissed along with connected CM.