

(2001) 12 AHC CK 0053

In the Allahabad High Court

Case No : Habeas Corpus Writ Petition Nos. 18779 and 18789 of 2001

Shamshul Haq : Mukhtar Ahmad

APPELLANT

Vs

Superintendent Division/District Jail, Azamgarh & Ors.

RESPONDENT

Date of Decision : 14-12-2001

Acts Referred:

National Security Act, 1980 — Section 3

Citation : (2001) 12 AHC CK 0053

Hon'ble Judges : S.R.Singh, J and R.D.Shukla, J

Final Decision : Disposed Of

Judgement

1. Since common questions of law and facts are involved in these writ petitions, it would be convenient to dispose them of by a common judgment. Accordingly, these petitions were taken up and heard for disposal by a common judgment.

2. The petition seek quashing of detention order dated 2012001 passed by the District Magistrate, Azamgarh in exercise of powers under subsection (2) of Section 3 of the National Security Act, 1980 with a view to preventing the petitioner from acting in a manner prejudicial to the maintenance of the public order. The impugned order of detention is passed on the basis of incidents leading to registration of case crime No. 425B of 2000, under Sections 147, 148, 149, 307, 302 IPC, Section 5 of Explosive Substance Act and Section 7 of Criminal Law Amendment Act, P.S. Mubarakpur, district Azamgarh and case crime No. 49 of 2000 under Sections 147, 148, 149, 324, 307, 504, 506 IPC and Section 7 Criminal Law Amendment Act. The requisite satisfaction arrived at in the grounds of detention is with reference to the aforesaid incidents. Similarly worded order of detention was passed as against Inamul Haq Engineer v. Superintendent, Division/District Jail, Azamgarh and others, reported in 2001 C.B.C. 411. The detention order and the continued detention in the aforesaid case have been set aside, inter alia on the ground that counter version contained in a case registered at the behest of the detenu on the basis of a judicial order under Section 156 (3) of the Code of Criminal Procedure was not brought to the

notice of the detaining authority. The counter version of the prosecution case registered at the behest of the petitioner, it cannot be gainsaid constituted relevant material nonconsideration of which vitiates the satisfaction arrived at by the District Magistrate. Criminal cases registered at Police Station Mubarakpur on the basis of three different orders passed under Section 156 (3) Cr. P.C. ought to have been brought to the notice of the detaining authority. The order of detention in the instant case is, therefore, liable to be quashed due to the reason of nonproduction of relevant material before the detaining authority.

3. Relying upon judgment of this Court in Inamul Haq Engineer (*supra*), we allow these writ petitions and quash the continued detention of the petitioner herein and direct the respondents to set the petitioner at liberty forthwith if he is not wanted in any other case.