
(1981) 05 RAJ CK 0002
In the Rajasthan High Court
Case No : Criminal Writ Petition No. 414/81

Smt. Thakuri Bai	Vs	APPELLANT
The State of Rajasthan and Another		RESPONDENT

Date of Decision : 05-05-1981

Acts Referred:

Constitution of India, 1950 — Article 226
National Security Act, 1980 — Section 3
Official Secrets Act, 1923 — Section 3
Penal Code, 1860 (IPC) — Section 323, 451

Citation : (1981) RLW 383 : (1981) WLN 540

Hon'ble Judges : M.L. Shrimal, J;K.S. Sidhu, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

K.S. Sidhu, J.—The petitioner, Thakuri Bai, obtained a rule in this case upon the State of Rajasthan to show cause why a writ of habeas corpus should not be issued under Article 226 of the Constitution for quashing the detention order, issued by the State Government against her son, Tillu alias Tillumal, son of Nianmal Sindhi, resident of Surajpole, Kota, vide No. F. 2/21(24) Home-5/80, dated, December 26, 1980, u/s 3(2), National Security Act, 1980 (for short, the Act) and consequently directing the release from detention of the said Tillu.

2. The facts necessary for the decision of this petition may be shortly stated here. On December 26, 1980, the State Government made an order u/s 3(2) of the Act directing that Tillu be detained, stating there in that it was satisfied that it was necessary to do so with a view preventing him from acting in a manner prejudicial to the maintenance of public order. Tillu was arrested on December 27, in pursuance of that order, and sent to Central Jail, Jaipur, where he is being detained these days. The grounds of detention were communicated to Tillu, vide, letter, dated, December 30, 1980, from the Home Secretary to the Government of Rajasthan. The Home Secretary made it clear in this letter that if Tillu was desirous of making any representation against the detention order, he could do

so and forward the game to him through the Superintendent, Central Jail, Jaipur. The grounds of detention which are in Hindi may be reproduced here:

Ekgkfujh{kd vkj{kh jkTkLFkku }kjk ,df=r lwpukvks ds vuqlkj Jh fVYyw mQZ fVYyww ey iq= fe;kaey fla/kh fuoklh lwjtiksy dksVk ,d vkijkf/kd izo`fRr dk O;fDr gS rFkk bldh vkijkf/kd xfrfof/k;kW yksd O;oLFkk la/kkj.k ds izfrdwy gS A Jh fVYyw mQZ fVYywey }kjk tks izeq[k vij/k uxj es fd;s x;s mudk fooj.k fuEu gS % &

1- Jh fVYyw mQZ fVYywey us o"kZ 1973 es vtesjh gksVy Jh iqjk es uwjeksgEen dh gksVy ij ekjihV dh fti ij Fkkuk edcj es eqdnek ua0 74] 26&4&73 /kkjk 451A323 vkbZ0 ih0 lh0 iathc) fd;k tkdj pkyku izLrqr fd;k x;k A ifjf"k"V , o ch Ik`"B 1 Is 6?

2- fnukad 5&6&74 dks fVYyw us ";ke fla/kh dks idM+ dj pkdw Is etcwj fd;k fti ij vfHk;ksx la0 86 fnukad 5&6&74 /kkjk 324A34 vkbZ0 ih0 lh0 Fkkuk edcj ij iathc) fd;k tkdj pkyku izLrqr fd;k x;k A? ifjf"k"V lh o Mh Ik`"B 7 Is 10?

3- fnukad 5&6&1974 dks gh fnu ds 3 cts fQj fVYyw us eksVj LVS.M+ ij gksVYk ";ke fla/kh es nkf[ky gksdj xqIrh ,oe~ pkdw Is pksVs igqpk;h fti vfHk;ksx la0 87 fnukad 5&6&74 /kkjk 147A148A149A452A307A341 vkbZ0 ih0 lh0 iathc) gksdj vnkyr es pkyku izLrqr fd;k x;k ?ifjf"k"B bZ o ,Q Ik`"B 11 Is 17?

4- fnuakd 27&12&77 dks fVYyw us fQj bl ";ke fla/kh ij vius lkFkh ds lkFk edku ij geyk dj xqIrh ,oa ryokj vkfn Is mldh eka o vkSjr ds pksV igaqpkbZ fti ij vfHk;ksx la0 191 fnukad 27&12&77 dks /kkjk 452A34 vkbZ0 ih0 lh0 Fkkuk nsFkuhiksy ij iathd`r fd;k tkdj pkyku izLrqr fd;k x;k A

5- fnukad 28&4&78 dks fQj blh ";ke fla/kh ij tc og viuh nqdku ij cSBk gqv k Fkk rks fVYyw us filrksy fudky dj ml ij 3&4 xksyh;ka pyk nh vkSj Hkkx x;k blds IEcu/ k es vfHk;ksx la0 78 fnukad 28&4&78 /kkjk 307 vkbZ0 ih0 lh0 es Fkkuk nsFkuhiksy ij iathd`r fd;k tkdj pkyku izLrqr fd;k x;k A?ifjf"k"B th o ,p Ik`"B 18 las 21?

6- fnukad 18&4&78 dks fVYyw us vius lkFkh vk"kkuan ds lkFk Jh Hkwfeflag ij geyk dj pksV igqapkbZ bl IEcu/k es Fkkuk nsFkuhiksy ij vfHk;ksx la0 84 fnukad 18&4&78 /kkjk 325A323 vkbZ0 ih0 lh0 es iathc) fd;k tkdj pkyku izLrqr fd;k x;k ? ifjf"k"B vkbZ o ts Ik`"B 22 las 27?

7- fnukad 22&8&78 dsk fVYyw dh fu"kkunsgH Is iqfyl }kjk ,d dV~Bk ?filrksy? fcuk ykblsUI cken fd;k x;k fti ij vfHk;ksx la;k 155 fnukad 22&7&78 /kkjk 3A25 vkeZl ,DV iathc) fd;k tkdj pkyku izLrqr fd;k x;k A ?ifjf"k"B ds o ,y Ik`"B 28 Is 38?

8- fnukad 14&7&78 dsk fVYyw Is iqfyl }kjk ,d 14 IsUVhehVj yEck pkdw cken gqv fti ij vfHk;ksx la;k 191 fnukad 14&7&78 /kkjk 4A25 vkeZl ,DV Fkkuk xqeku iwjk ij iathc) fd;k tkdj pkyku izLrqr fd;k A ?ifjf"k"B ,e o ,u Ik`"B 33 Is 37?

9- fnuakd 26&8&79 dks tc NsfV;ka vius ?kj vk jgk Fkk rks fVYyw vius lkFkh o cztkjtkflag ds lkFk ml ij izk.k?kkrd geyk fd;k ftlls muds pksVs vkbZ A ml ij vfHk;ksx la0 29 fnukad 26&2&79 /kkjk 307A34 vkbZ0 ih0 lh0 iathc) fd;k tkdj

pkyku izLrqr fd;k x;k A ? ifjf"k"B vks o ih Ik`"B 38 ls 43?

10- fnukad 26&8&79 dsk fVYyw us ryokjks ls [ksjkrh iatkch ij izk.k?kkrd geyk fd;k ftl ij Fkkuk nFkwuhiksy ij vfHk;ksx la[;k 115 fnukad 26&8&79 /kkjk 4A25 vkeZl ,DV iathc) fd;k tkdj pkyku izLrqr fd;k x;k A ? ifjf"k"B D;w o vkj0 Ik`"B 44 ls 52?

11- fnukad 28&8&79 dks fVYyw ds ikl 3 ryokj /kkjnkj fcuk ykbZlsUl dh iqfyl }kjk cjken dh x;hA ftl ij mlds fo:) eqdnek la0 116 fnukad 28&8&79 /kkjk 4A25 vkeZl ,DV iathc) fd;k tkdj pkyku izLrqr fd;k x;k A ? ifjf"k"B ,l o Vh Ik`"B 53 ls 58?

12- fnukaad 13&2&80 dks fVYyw us vius lkFk c` tjkftflag ds lkFk nqdku Jh dUgS;k yky fla/kh ij igqap dj mls ekjihV dj 10]000@& :Ik;s dh ywVekj dh ftl ij vfHk;ksx la[;k 18 fnukad 25&2&80 /kkjk 394A34 vkbZ0 ih0 lh0 Fkkuk dksrokyh es iathc) fd;k tkdj pkyku izLrqr fd;k x;k A ? ifjf"k"B ;w o oh Ik`"B 59 ls 67?

13- fnukad 14&2&80 dks bl fVYyw dks "kjc ds u"ks es pkdw lfgr iqfyl }kjk fxjQrkj fd;k x;k blds fo:) vfHk;ksx 24 fnuakd 14&2&80 vUrZxr e|fu"ks/k dkuwu o /kkjk 4A25 vkeZl ,DV es Fkkuk m|ksx uxj es iathc) fd;k tkdj pkyku izLrqr fd;k ? ifjf"k"B MCyw o ,DI Ik`"B 68 ls 73?

14- fnukad 25&4&80 dks fVYyw us vius lkFkh;ks ds lkFk Jh xksj/kunkl fla/kh ij geyk dj mls pkdw vkfn ls pksVs igqpkbZ A bl ?kVuk d lEcU/k es eqdnek la[;k 136 fnukad 25&4&80 /kkjk 307A147A148A149A vkbZ0 ih0 lh0 Fkkuk xqekuiqjk es iathc) fd;k tkdj pkyku izLrqr fd;k x;k ? ifjf"k"B okb o tsM Ik`"B 74 ls 79?

15- fnukad 30&8&80 dsk fVYyw us vius lkFk;ks ds lkFk eksgu Vkdht ij igqpdj 2000@& :Ik;s dh ekaxs vkSj dqfLZ;k mBkdj QSdh o rksM+ QksM+ dh A ftl ij vfHk;ksx la0 118 fnukad 30&8&80 /kkjk 341A385A452 vkbZ0 ih0 lh0 es Fkkuk os;)hiksy ij ntZ gksdj pkyku izLrqr fd;k x;k ? ifjf"k"B ,, o chch Ik`"B 80 ls 83?

16- fnukad 31&7&77] 30&8&78] 20&10&78] 28&7&78] 30&8&80] 30&9&80 dsk mDr Jh fVYyw ds fo:) iqfyl }kjk bLrxk ls Hkh izLrqr fd, x, tks fopkjk/khu gS A ? ifjf"k"B lhlh] MhMh] ,Q,Q] thth o ,p,p Ik`"B 84 ls 99 ?

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x`g lfpo

"kklu lfpo

These grounds and the supportive documents were placed by the State Government before the Advisory Board constituted under the Act. On January 29, 1981, the Borad considered the entire material and recorded the opinion that there was sufficient cause for detention of Tillu. On receipt of this report, the State Government confirmed the detention order on February 18, 1981, and directed that the detenu shall be kept in detention for the maximum period of 12 months from the date of his detention, in other words, the detenu has been ordered to be detained till December 26, 1981.

3. The petitioner challenged the detention order on a number of grounds pleaded in paragraphs 6, 7 and 8 of the writ petition. These may be summarised here as follows

(i) Most of the criminal prosecutions against the detenu which are mentioned in the grounds of detention supplied to him are the out-come of enmity of one Shyam Sindhi and his servants and supporters against the detenu.

(ii) The detenu has already been acquitted in cases enumerated at Nos. 1, 2, 3, 5, & 16 of the grounds of detention. He has not so far been convicted in any of the cases filed against him. He can not be lawfully detained merely because a number of cases are still pending trial against him.

(iii) None of the incidents detailed in the grounds of detention bears upon the maintenance of public order or of the detenu acting prejudicially to the maintenance of public order. All the said incidents are stray incidents relating to alleged disturbance of law and order instead of public order.

4. The State of Rajasthan filed a written reply in answer to the writ petition. It pleaded that the impugned order of detention was passed by it after fully satisfying itself on the basis of the report of the Inspector General of Police that the detenu is a habitual offender whose criminal activities, as detailed in the report, pose a serious danger to the maintenance of public order. Details of all the incidents reported to the State Government by the Inspector General of Police on which the detention order was made were supplied to the detenu. The State reiterated that the detenu is a desperado who has created terror in the locality and the witnesses in some of the cases pending against him. The State explained in this context that in the case mentioned at No.1 in the grounds of detention, Noor Mohd. the complainant compromised the cast under the pressure of the detenu, with the result that the trial court convicted him u/s 323 I.P.C. alone and acquitted him of the more serious charge u/s 451 I.P.C. The State, admitted that in three other cases referred to by the petitioner, the detenu had been acquitted by The courts concerned. The State placed on the record & large number of documents, Ex.R.36, to Ex.R.36, stating that copies of these documents had been supplied to the detenu along with the grounds of detention and that the petitioner had deliberately suppressed this fact from the court in the writ petition filed by her for the release of the detenue.

5. We may therefore proceed to decide this case on the footing that the grounds of detention, as reproduced in an earlier part of this judgment, along with all the supportive documents, were supplied to the detenu, through the Superintendent of Central Jail, Jaipur, vide letter, dated, December 30, 1980, and that, inspite of a clear notice to the detenu that if he wanted to make any representation against the detention order he could do so and forward the same to the Home Secretary through the Superintendent, Central Jail, Jaipur, he did not make any representation against the impugned order. This does not, however mean that the petitioner is precluded from challenging the impugned order. Of course, it is

open to the petitioner to challenge the impugned order on any ground on which it could possibly be quashed. We have already mentioned that the petitioner has challenged it in this writ petition on grounds which we have summarised into three different categories above. Mr. Tyagi, learned Counsel for the petitioner raised an additional ground in his submissions at the bar to the effect that the grounds of detention are vague and irrelevant. Ordinarily, a plea which is not taken up in the writ petition should not be allowed to be taken up for the first time in arguments. Having regard, however, to the fact that this is a habeas corpus petition, we heard Mr. Tyagi on the additional ground as well.

6. Taking up the additional ground first, we may straight-away point out that the grounds of detention do not suffer from any defect of vagueness or irrelevancy. All the incidents were detailed in the grounds of detention with reference to the F.I.R registered in each case and the challan submitted in the court as a result of investigation by the police. It is significant to note that copies of all the F.I.R.s and of the police charge-sheets submitted in various courts on the basis of these F.I.Rs. were also supplied to the detenu along with the grounds of detention. The argument that the grounds suffer from the defect of vagueness is therefore wholly devoid of force.

7. As for the argument that the grounds are irrelevant, Mr. Tyagi's thesis is that since all the grounds bear upon law and order, rather than public order they are irrelevant and therefore the detention order is bad. This argument is covered by item number (iii) of the summary of the grounds given by us in an earlier part of this judgment. It will therefore be dealt with presently when we take up those grounds.

Ground No. (i)

8. We have carefully examined the various F.I.Rs. registered against the detenu and the police charge-sheets submitted as result of investigation by the police into those F.I.Rs. and find that, out of a total of as many as 15 criminal prosecutions and 6 criminal proceedings launched against the detenu during a period spread over nearly 6 years, Shyam Sindhi figured as a Complainant in 4 criminal prosecutions only. It would not, therefore, be correct to say that most of the criminal prosecutions were launched against the detenu at the instance of Shyam Sindhi. It will be seen that the alleged criminal activities of the detenu during the aforementioned period were directed against a cross-section of the residents of the town of Kota. The incidents which are approximate to the date of the making of the detention order include an incident of alleged robbery at the shop of Kanhyalal at point of knife at about 8.30 P.M. when he was in the process of closing the shop, and a similar affray into Mohan Talkies where he and his companions are alleged to have created terror by indiscriminately throwing pieces of furniture around in trying to extort a sum of Rs, 2,000/- from the Manager Of the said Cinema. The complainant in the latter case was kept wrongfully confined so that he could not inform the police for timely help. It is significant to note that the alleged criminal activities of the detenu were centred

in the industrial and commercial town of Kota, extending to the localities Covered by four different police stations of that town including the city centre of Kotwali. We are therefore not impressed by the argument that most of the criminal prosecutions relied on for making the detention order are the out-come of the alleged enmity between the detenu and one Shyam Sindhi. It is obvious that the detention order had to be made as a result of the cumulative effect of all these incidents, more particularly the incidents of the year 1980. Shyam Sindhi does not figure in the incidents of that year at all.

Ground (it)

9. The law is well settled that a person may be lawfully; detained on the basis of an incident on which he was earlier prosecuted in a court of law and either discharged or acquitted by the court concerned. This proposition is of course not absolute, for the court may discover that the order of discharge or acquittal was recorded on the ground that the accusation brought against that person was false; and if so, no valid order of detention can be passed in connection with an incident, which was found to be definitely false. In *Sahib Singh Dugal Vs. Union of India (UOI)*, , *Sahib Singh*, before the order of detention was made against him, had been prosecuted u/s 3, Official Secrets Act, and discharged for want of evidence, because the prosecution had itself made an application for such discharge stating that no evidence was available to it to justify the framing of a charge against him. Immediately after *Sahib Singh* came out of the Jail, he was arrested and detained under the Defence of India Rules. The Supreme Court upheld the detention holding that it cannot be struck down as mala fide merely because the detenu had earlier been prosecuted and discharged.

10. Reference may also be made to *Mohd. Salim Khan Vs. Shri C.C. Bose and Another*, where in the Supreme Court held that the fact that the particular file referred by the authority making the order of detention did not contain the information about the earlier discharge or acquittal of the detenu can not effect the validity of the order of detention because the said authority might have otherwise got the said information, and more over what is needed is subjective satisfaction of the detaining authority and not that of the court, and for that reason the court is precluded from going into the question as to the adequacy or otherwise of the materials on which satisfaction has been reached.

11. Similarly, in *Sasti alias Satish Chowdhary Vs. State of West Bengal*, , the Supreme Court held that it is open to the detaining authority to make an order of detention in respect of an incident which constitutes an offence under the Penal Code, but in which the accused was not sent up for trial, Their Lordships pointed out in this context that where a person has been actually prosecuted in a court of law in respect of an incident and has been discharged by the trial Magistrate, a valid order of detention can be passed against him in connection with that very incident.

12. Lastly, reference may be made to *Bhut Nath Mete Vs. The State of West*

Bengal, where in the Supreme Court held that the jurisdiction for preventive detention is different from that of judicial trial or courts for offences and of judicial proceeding for prevention of offences. Their Lordships added in this context that even unsuccessful judicial trial or proceeding would not operate as bar to a detention order or render it *male fide*.

13. The petitioner in the instant case has not even alleged, much less proved, that the detenu was acquitted in any of these cases with finding that the incident in respect of which he was prosecuted was false. That being so, the acquittal of the detenu in a few cases out of the so many pending against him does not affect the validity of the order of detention. Acquittal of the detenu in a few cases arising out of the incidents which are included in the grounds of detention and absence of conviction in others which are still pending trial are circumstances for the detaining authority to consider, and if, in spite of them, it is still satisfied that the incidents in question are serious enough to prejudice the maintenance of public order, the court is precluded from going into question as to the adequacy or otherwise of those incidents on which the satisfaction of the detaining authority has been arrived at.

14. In view of the foregoing discussion, this ground of challenge also therefore fails.

Ground (iii)

15. We have already indicated, while surveying the grounds of detention in the context of the arguments of the petitioner's learned Counsel under the heading "ground (1)", that the incidents of the year 1980 which are proximate to the order of detention are of such a grave nature that, besides being disruptive of law and order, they were bound to effect the even tenor of life of the public at large in the localities concerned and create terror in the area. It will be recalled that the incident mentioned at No. 12 of the grounds of detention occurred in a shop in Nai Sabzi Mandi Kota on February 14, 1980, at 8.30 p.m. What happened was that the detenu, along with two others, is said to have entered the shop of one Kanhya Lal brandishing a knife, just about the time when Kanhyalal was counting his cash collections preparatory to closing the shop for the day, threatened him with death and thus robbed him of Rs. 10,000/-. Kanhyalal was too terrified to report the occurrence to the police the same night. Instead, he first complained to the Sabzi Mandi Union on February 15, morning. It was only with the help of the Union that he mustered courage to lodge the report with the police on February 15 at 9.30 A.M.

16. The incident mentioned at No. 15 of the grounds of detention is of equally, if not more, grave nature. On August 30, 1980, at about 11.30 p.m. the detenu and his companions raided a cinema premises known as Mohan Talkies, situate in the town of Kota, created all round terror there by indiscriminately hurling pieces of cinema furniture around in trying to extort some money from the Manager of the cinema. They kept the complainant wrongfully confined to prevent him from

making a report to the police for timely help.

17. The Supreme Court has held time and again that the question whether a particular act causes a breach merely of law and order or is serious enough to disturb public order depends on the facts and circumstances of each case. In *Arun Ghosh Vs. State of West Bengal*, Hidayatullah C.J. (as his Lordship then was), delivering the judgment of the Court observed:

It means therefore that the question whether a man has only committed a breach of law and order or has acted in a manner likely to cause a disturbance of the public order is a question of degree and the extent of the reach of the act upon the society. The French distinguish law and order and public order by designating the latter as *ordre publique*. The latter expression has been recognised as meaning something more than ordinary maintenance of law and order. Justice Ramaswami in *Writ Petn. No. 179 of 1968 (SC)* drew a line of demarcation between the serious and aggravated forms of breaches of public order which affect the community or endanger the public interest at large from minor breaches of peace which do not affect the public and private crime. The analogy is useful but not to be pushed too far. A large number of acts directed against persons or individuals may total up into a breach of public Order. In *Dr. Ram Manohar Lohia Vs. State of Bihar and Others*, examples were given by Sarkar and Hidayatullah JJ. They show how similar acts in different contexts affect differently law and order on the one hand and public order on the other. It is always a question of degree of the harm and its effect upon the community. The question to ask is, Does it lead to disturbance of the current of life of the community so as to amount a disturbance of the public order or does it affect merely an individual leaving the tranquility of the society undisturbed? This question has to be faced in every case on facts. There is no formula by which one case can be distinguished from another.

18. Now, the incidents which we have mentioned above and which are clearly proximate to the order of detention definitely bear upon the maintenance of public order because what the detenu is alleged to have done in the Sabzi Mandi Area affected even the tempo of life of large Sections of the community in that area of Kota and jeopardised public order there. Similarly, he created a terror among the cinema fans of the town by openly committing acts of affray and violence in the cinema on August 30, 1980, at 11.30 P.M. We are of the considered opinion that these are the kind of incidents which are definitely prejudicial to the maintenance of public order.

19. The other incidents enumerated in the grounds of detention do represent, in a sense, acts affecting persons or individuals and as such relating to law and order, but all these incidents, viewed in the context of the two incidents proximate to the order of detention and which are clearly prejudicial to the maintenance of public order, cannot be ignored as irrelevant or insignificant incidents. These incidents cover the criminal activities of the detenue spread over a period of more than 6 years. They are definitely relevant in that they disclose

the background and criminal history of the detainee culminating in the commission of criminal acts which have seriously prejudiced the maintenance of public order. Possession of illicit fire arms and dangerous weapons like illicit swords and knives and the commission of repeated acts of assault and battery and attempts on the life of individuals cannot, by any means, be described as stray incidents having nothing to do with the incidents which are more serious and thus directly prejudicial to the maintenance of public order. We are quite clear in our mind that all the incidents detailed in the 16 grounds of detention are interlinked and therefore the incidents which do not directly bear upon public order are relevant in as much as they provide, so to say, a historical background to the incidents directly bearing on public order. We would, once again like to invite attention in this connection to that part of the observations of Hidayatullah C.J. (supra) where in his Lordship emphasised the fact that "a large number of acts directed against persons or individuals may total up into a breach of public order".

20. Mr. Tyagi, learned Counsel for the petitioner, cited a few rulings in support of his argument that an incident or incidents relating to law and order, if considered along with an incident or incidents relating to public order, would vitiate the detention order because in such a situation, as Mr. Tyagi argued, one can never be certain to what extent the incident or incidents relating to law and order operated on the mind of the detaining authority. We have carefully perused these authorities and find that they have no application to the facts of this case. We have already held that¹ the incidents which do not directly bear upon public order are relevant in the facts and circumstances of this case, in as much as they informed the detaining authority about the background material connected with and culminating in the commission of serious crimes by the detenu against public order in 1980 which are proximate to the detention order passed against him. The Supreme Court cases cited at the bar relate to incidents which in the facts and circumstances of each case were held to be irrelevant.

21. We may refer here to a few cases and see how each case turned on its own facts. In *Pushkar Mukherjee v. State of West Bengal* AIR 1970 S.C. 952, three of the five incidents relied upon in the grounds of detention related to assault on individuals causing bodily hurt to them and the remaining two incidents were which may properly be considered as jeopardising public order. It will be seen that the former three incidents of assault and battery on individuals stood in a category apart from the other two incidents in as much as there was nothing to interlink the two categories. Moreover, this case was subsequently noticed by the Supreme Court in *Arun Ghosh v. State of West Bengal* (supra) with the remarks that Ramaswamy J who delivered the judgment of the Court had pushed the distinction between public and private crimes too far.

22. Reference may then be made to *Sudhir Kumar Saha Vs. The Commissioner of Police, Calcutta and Another*, . This is a case involving three incidents which were described by the Supreme Court as stray incidents having no interlink with one another. This again is a ruling which was noticed by the Supreme Court subsequently

in Kanu Biswas v. State of West Bengal AIR 1972 S.C. 1956 stating that it deserved to be viewed as a "solitary decision" as against many others which supported the view the Court was inclined to take in Kanu Biswas's case on the facts of that case.

23. For all these reasons, Ground (iii), also fails and is rejected.

24. In conclusion, we do not find any good ground for the grant of a writ of habeas corpus in this case. The writ petition is, therefore, dismissed and the rule is hereby discharged.