

(2009) 08 AHC CK 0035
In the Allahabad High Court
Case No : H.C.P. No. 8084 of 2009

Sugun alias Peerbux

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 11-08-2009

Acts Referred:

Uttar Pradesh Prevention of Cow Slaughter Act, 1955 — Section 3, 8

Citation : (2010) 2 ACR 1789

Hon'ble Judges : D.R. Azad, J; Amar Saran, J

Bench : Division Bench

Advocate : V.P. Gupta, for the Appellant; Shashi Kant Mishra, Addl. S.G.I. and A.G.A., for the Respondent

Judgement

Amar Saran and D.R. Azad, JJ.—Heard learned Counsel for the Petitioner, Shri S.K. Mishra, learned Counsel for the Union of India and learned Additional Government Advocate.

2. A detention order dated 6.9.2008 and the pursuant detention of the Petitioner have been challenged by means of this petition.

3. The grounds of detention was that on 15.8.2008 at about 4-5 p.m., one bullock had strayed into the guava orchard of the Petitioner, but the Petitioner instead of chasing the animal away, in a preplanned manner attacked the animal with pharsa. Some villagers tried to stop the Petitioner, but the Petitioner violently attacked the animal and cut it. The report was lodged on 16.8.2008 u/s 3/8 of U.P. Prevention of Cow Slaughter Act and thereafter the Petitioner was arrested. The alleged pharsa was also got recovered from the Petitioner. It is stated that the Petitioner, therefore, violated Hindu sentiments by this action.

4. As the Petitioner had been bailed out, it is argued that the detention order has been passed in a mala fide manner.

5. From a perusal of the ground of detention, we find that the ground of detention only indicated an outraged response of a farmer whose orchard had

been damaged by a bullock. We do not think that any issue of public order is involved here. Simply because, one set of people become over-sensitive in some matter, provides no ground for giving a go by to the prosecution under the normal criminal law and for taking recourse to the extraordinary measure of detaining a person without trial under a preventive law. We think, it would amount to abuse of the process of law.

6. Secondly, it was argued that there was undue delay in considering the representation of the Petitioner dated 18.9.2009 by the Central Government as it is contended that the representation was received by the Central Government on 1.10.2008, but repeated letters had to be sent to the State Government on 3.10.2008, 17.10.2008 and 11.12.2008 for getting the criminal history of the Petitioner, but no criminal history was disclosed.

7. Learned A.GA. states that he has filed a supplementary-counter-affidavit indicating therein that vide letter dated 6.10.2008, Central Government had asked the State Government to send the criminal history of the Petitioner. The aforesaid letter was received by the State Government on 26.11.2008 and thereafter, after completing the necessary formalities, on 8.12.2008, criminal history of the Petitioner was sent to the Under Secretary, Ministry of Home Affairs, Government of India, New Delhi.

8. We think that this is sheer bureaucratism in dealing with the representation of the Petitioner. Moreover, this undue delay has not been satisfactorily explained.

9. In this view of the matter, the writ petition is allowed. The detention order dated 6.9.2008 is set aside. The detenu shall be set at liberty forthwith, unless wanted in any other case.