
Chaudhri Rambhaj Vs Punjab State

None

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Jan. 2, 1954

Acts Referred:

Constitution of India, 1950 " Article 21, 22, 226#Penal Code, 1860 (IPC) " Section 148, 149, 302, 307

Citation: (1954) CriLJ 1068

Hon'ble Judges: Falshaw, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

Falshaw, J.

This is a "habeas corpus" petition under Article 226 of the Constitution filed by Chaudhri Rambhaj, an Advocate of Rohtak,

on behalf of his uncle Chaudhri Ram Sarup who was arrested and placed under detention under the provisions of the Preventive Detention Act by

an order of Mr. H. D. Shorie, the District Magistrate of Rohtak, dated 19-10-1953.

The copy of the grounds on which the order of detention was based supplied to the detenu u/s 7 of the Act reads as follows:

1. That with the intention of overawing and subduing your political and other opponents and in order to wield influence in the rural area of Rohtak

District, you are associating with and patronising the Jat gang of outlaws, the prominent member of which is Hem Raj s/o Hari Ram, Jat resident of

Mehrarra, Police Station Jalana, District Sangrur (Pepsu), and who is wanted in a large number of murder and dacoity cases noted in the margin

(15 in number not printed as being unnecessary) and as a result of whose activities several murders and dacoities have been committed and public

peace disturbed. Amongst the many acts of your association and assistance, a few specific acts are mentioned below:

(1) That on 29-8-53, at about 7-30 P. M. at your well, known as Tekramwala in village Khadwali, you were seen talking with the said Hem Raj

and two others, all armed. On Information, a raid was organised but you managed to slip away by the time the Police reached there;

(2) That on the night of 17-18/8/53, Hem Raj aforesaid was wounded during the commission of the double murder, details of which are given in

para, 2; you arranged for his medical aid in a jungle near Jind;

(3) That on 15-9-53 afternoon you were seen closeted with the said Hem Raj and two of his unknown associates fully armed under "Jar tree on

the boundary of villages Rukhi and Mehra in Police Station Barauda, in consequence whereof a raid was organised but by the time the raid party

could reach the scene, you had escaped.

2. On the night of 17-18/8/53 in the area of village Khadwali Sis Ram and Lachhi Ram barbers of that village along with their two brothers-Subha

Chand and Ram Narain, were attacked by 8 persons headed by the aforesaid Hem Raj armed with guns, rifles and other dangerous weapons. The

former two were done to death, while Sobha Chand was wounded.

A case P. I. R. No, 49 dated 18-8-53 u/s 302/307/149/148, I. P. C. was registered at Police Station Sadr Rohtak. In this case, four accused-

Maman son of Ramji Lal, Pirthi son of Sukh Lal, Bhagwana son of Dungar and Ram Chandar son of Jowahra, Jats of this village were arrested

and Hem Raj mentioned in para. (1) is still absconding. Taking advantage of your past criminal habits and tendencies and the influence you have

gained with the outlaws and in order to screen the accused from punishment, you have engaged in the commission of the undermentioned acts:

(i) That on 19-8-53, you went to the mortuary at Rohtak, met Sobha Chand, prosecution witness, who was present there to identify the dead

bodies of his two brothers at the time of post mortem examination and cautioned him not to prosecute the murder case, beg pardon of the Jats of

his Tana" and threatened him with dire consequences in case he acted otherwise.

(ii) That on 25-9-53, in the premises of the District Courts Rohtak, when this case was to come up for hearing before Shri Rajinder Singh, M. I.

C., you seduced Ram Narain and other prosecution witnesses and took them away, thus obstructing the course of justice.

(iii) That on 4-10-53, you collected a Panchayafe in village Khadwali and asked the persona present there to help the Jat gang and not to depose

against the said Hem Raj and his associates in this double murder case; and

(iv) That continuously you are exerting pressure on Sobha Chand and Ram Narain prosecution witnesses asking them not to depose in favour of

the prosecution and have again threatened them on 5-10-53.

3. That by taking undue advantage of your past criminal habits and tendencies and your association with outlaws and the terror that you have

spread amongst the villagers, you in the middle of September 1953 coerced one Chandar son of Hem Chand, resident of village Jassia, P. S. Sadr

Rohtak, on a false accusation of theft, forcing him to pay Rs. 2,000/- to you. You beat him and threatened him with death citing the fate of

Khedwali case. On or about 26-9-1953, Chandar arranged a sum of Rs. 1150/- by mortgaging his 8 1/2 "Oignas" of land with Risala Jat and paid

it to you. You gave him 3 days to arrange for the balance of Rs. 850/-. Having failed to find any means to arrange this amount, the said Chandar

has quitted the village in terror.

4. On the evening of 6-9-52, Ram Das son of Dewak Ram, your nephew, along with Raghbir Singh s/o Matu, Jat of village Khadwali, waylaid

two persons along the Delhi Sonapat canal bank in the area of village Bhadwasni, P. S. Sonapat, and robbed them of their two cycles, clothes etc.

at the point of the licensed gun of the former. On receipt of information S. S. O. Sonapat - S. I. Suche Singh, reached the spot, followed the tracks

of the cycles and successfully pursued and captured the accused along with the stolen property and the gun in village Gohana, which was the most

favourite haunt of Hem Raj and Ram Kishan outlaws and wherefrom 6 notorious harbourers of this gang were detained u/s 3, Preventive Detention

Act. In order to deter the prosecution witnesses from speaking the truth and to overawe them, you did the following acts:

(1) That on 7-9-52, you sent your brother Ch. Hari Ram Advocate, Ch. Surat Singh son of Ram Sarup, Jat resident of Makrauli, and Mange Ram

son of Bahal Singh, Jat resident of village Pilpi Khera, P. S. Gannaur, to S. I. Sucha Singh in order to persuade him to help the accused one of

whom was your nephew, to keep up your prestige. They acted according to your instructions and finding themselves unsuccessful in their efforts,

they threatened the Sub-Inspector:

(ii) That two or three days later you approached the prosecution witnesses Tek Chand and Chat Reim residents of Salimsar Majra and others and

threatened them with murder through the said Hem Raj and Ram Kishan outlaws in "" case they supported the prosecution; and

(iii) That on 13-10-53 you went to village Salimsar Majra and gave these witnesses the final warning of death through the outlaws for having

supported the prosecution.

5. That on 25-8-53 and 3-10-53 in the premises of district courts, Rohtak, you asked S. I. Sarjit Singh, S. H. O. Sadr Rohtak, not to prosecute

the Khadwali murder case (- "State versus Maman and others", FIR No. 49 dated 18-8-53 u/s 302/307/149 I. P. C. PS. Sadr Rohtak) on the

ground that according to you the accused were innocent and finding the replies unfavourable, on 3-10-53 you threatened him to take care of his

own safety as you would set the bad characters on him.

2. In attacking the legality of the detention the learned Counsel for the petitioner has contended that the grounds, particularly ground No. 1, are

vague, and that since several of the grounds other than No. 1 furnish grounds for taking action against the detenu under the ordinary criminal law

the detention is "mala fide".

3. In support of his argument on the first contention the learned Counsel for the petitioner has relied particularly on the judgment of Kapur and

Dulat, JJ. in - Panna Ram Pat Ram Vs. State, and the decision of the Supreme Court in - Dr. Ram Krishan Bhardwaj Vs. The State of Delhi and

Others, In that case the constitution Bench of the Supreme Court held that the detention of the petitioner was illegal and ordered his release on the

ground that one part of the grounds of detention supplied to him was vague.

This part of the grounds reads:

You have been organising the movement by enrolling volunteers among the refugees in your capacity as President of the Refugee Association of the

Bara Hindu Rao.

The contention of the learned Attorney General that although this particular sub-paragraph might be vague in itself, it was not vague when read

along with the rest of the grounds, was rejected and the judgment concludes with the following passage:

Preventive detention is a serious invasion of personal liberty and such meagre safeguards as the Constitution has provided against the improper

exercise of the power must be jealously watched and enforced by the Court.

In this case, the petitioner has the right, under Article 226, as interpreted by this Court by a majority, to be furnished with particulars of the grounds

of his detention "sufficient to enable him to make a representation which on being considered may give relief to him". We are of the opinion that this

constitutional requirement must be satisfied with respect to each of the grounds communicated to the person detained, subject of course to a claim

of privilege under Clause (6) of Article 22.

That not having been done in regard to the ground mentioned in sub-para, (e) of para. 2 of the statement of grounds, the petitioner's detention

cannot be held to be in accordance with the procedure established by law within the meaning of Article 21.

4. This decision was followed by Kapur and Dulat, JJ. in the case mentioned above which related to the detention of one Nanu Ram, whose

detention was ordered by the learned District Magistrate of Hissar on 10-2-1953 on grounds which bear some resemblance to the grounds of

detention in the present case. It would appear from the judgment that grounds in general were not thought to be vague, but one ground in particular

was thought to be too vague for the detenu possibly to be able to make any effective representation regarding it, and therefore the order of

detention as a whole was held to be illegal.

The passage to which objection was particularly taken reads:

Your places are the meeting places of all murderers and "badmashes" not only from this State but also from Pepsu and Rajasthan. It is widely

known that the members of your party and that of Mukh Ram are big schemers and do no cultivation themselves.

I entirely agree that the first sentence of this passage, at any rate, is so vague and sweeping as to be almost meaningless but no such passage

occurs in the grounds supplied to the present detenu, and I cannot agree with the contention of his learned Counsel that ground No. 1 in the

present case falls into the same category or that its meaning is at all obscure.

5. The first sentence taken by itself may possibly be regarded as somewhat vague alleging, as it does, association with a gang headed by one Hem

Raj who is wanted by the Police in 15 cases of murder and dacoity, but since in the same paragraph the grounds continue with the words,

amongst the many acts of your association and assistance, a few specific acts are mentioned below", which is followed by details of three recent

occasions on which the detenu had been seen in the company of Hem Raj, I cannot agree that ground No. 1 can be said to be vague, and the

allegations contained in all the other grounds are certainly sufficiently detailed and specific for their meaning to be clear to the meanest intellect.

6. It is certainly true, as was pointed out by the learned Counsel for the petitioner, that the allegations contained in some of the other grounds

would justify action against the petitioner under the ordinary criminal law. In particular, in ground No. 3 a definite allegation of extortion is made

against the detenu and his alleged interference with the course of justice which forms the subject of some of the other grounds might also justify

action against him under one or other of the security sections of the Criminal Procedure Code.

In this connection reliance was placed on the remarks of Mukherjea, J. in - Ashutosh Lahiry Vs. The State of Delhi and Another, though the

decision was delivered as long ago as May 1950, to the effect that there could be no better proof of "mala fides" on the part of the executive

authorities than a use of the extraordinary provisions contained in the Act for purposes for which ordinary law is quite sufficient. This remark was,

however, made in a case in which the detenu's petition was dismissed, and there does not appear to be any decision of the Supreme Court in

which it has been definitely held that because a man might have been prosecuted on the basis of allegations put forward as grounds for his

detention, his detention is necessarily illegal. It is indeed quite easy to conceive of circumstances in which, even in such a case, the main purpose of

the detention is evidently preventive and not punitive.

7. It is also a moot point whether in dealing with a man such as the present detenu is alleged to be, the ordinary law can be said to be sufficient.

The whole gravamen of the grounds of detention in the present case is that the detenu is so powerful himself, and is also a close associate of such

desparados, that it is impossible to procure witnesses to appear against him for the purpose of dealing with him under the ordinary law. That such a

state of affairs could exist is deplorable, but it may nevertheless be a fact, and, if it is so, it seems to me that recourse to the powers of preventive

detention by the authorities is not only legitimate, but is the only course which they could adopt for the purpose of restoring a healthier atmosphere

in which the ordinary processes of law can be exercised properly.

8. For these reasons I consider that there is nothing illegal about the detention of the detenu in this case and I accordingly dismiss the petition.