

PETITIONER:
NARAYAN DEBNATH

Vs.

RESPONDENT:
THE STATE OF WEST BENGAL

DATE OF JUDGMENT 13/09/1974

BENCH:
GOSWAMI, P.K.
BENCH:
GOSWAMI, P.K.
REDDY, P. JAGANMOHAN

CITATION:
1976 AIR 780 1976 SCR (2) 780
1975 SCC (4) 508

ACT:
Maintenance of Internal Security Act, 1971, s. 3.-Scope of inquiry by Court in a petition challenging detention-- Armed robbery in running train-If affects public order.

HEADNOTE:
The petitioner was detained under s. 3, Maintenance of Internal Security Act, 1971, on the sole ground that on 16-2-1973 at about 10 p.m. he, along with his associates, being armed with guns and other weapons, committed dacoity in a third class compartment of a running train. In a petition challenging the detention order the District Magistrate stated in his counter affidavit that he based his subjective satisfaction only on the ground mentioned in the detention order although other materials were placed before him. The Court therefore, examined the record and the history sheet of the detenu and held, dismissing the petition, that.

(1) The ground on which the detention order had been made would reasonably give rise to a bona fide satisfaction in the mind of the detaining authority that such incidents were likely to be repeated in the same manner and that those who were alleged to have taken part in even a single incident of such magnitude had to be detained in order that the tempo of peace in public life was not jeopardised. A careful examination of the record and the history sheet showed, having regard to the grave nature of the act committed by the detenu, that the District Magistrate was bonafide satisfied that the said Act was sufficient for making the detention order. [58F-G; 60A-B]

(2) It could not be contended unless the facts stated in the grounds are proved to the satisfaction of the Court, no action can be taken under the Act. It is because that the act complained of cannot be satisfactorily proved in a Court of law or that the witnesses are unwilling to come forward being already terrified by the enormity of the act perpetrated that action has to be taken under the Act to prevent further commission of offenses of similar nature. [58G-H]

Besides, the scope of inquiry in a case of this nature is very limited. The Court has to assume the grounds to be true and it is not its function to examine the truth or

otherwise of the allegations mentioned in the grounds. [58H],

(3) It could not also be contended that the matter merely affects law and order but not public order. When an armed robbery or dacoity is alleged to have been committed by the petitioner armed with guns and with his associates similarly armed, in a running train, it no longer remains a matter of simple law and order as the peaceful tempo of life of the community at large is also affected thereby. It not only puts the passengers from various Places and walks of life in the particular third class compartment in fear, but puts the passengers of the entire train and even of other running trains in panic. Public order and life of the community is thereby clearly disturbed and that amounts to public disorder which had to be prevented by action under the Act. [59A-D]

Subal Chandra Ghosh v. State of West Bengal, A.I.R. 1972 S.C. P. 2146, Arun Ghosh v. State of West Bengal [1970] 3 S.C.R. 288, Ram Manohar Lohial's case in [1966] 1 S.C.R. 709. followed.

JUDGMENT:

ORIGINAL JURISDICTION : Writ Petition No. 305 of 1974.

Petition under Article 32 of the Constitution of India.

G. Narayana Rao, for the petitioner.

Sumitra Chakravarty, G. S. Chatterjee and S. K. Basu, for the respondent.

58

The Judgment of the Court was delivered by GOSWAMI J.-The petitioner has been detained u/s 3 of the Maintenance of Internal Security Act, 1971 (briefly the Act) (in order to prevent him from acting in a manner prejudicial to the maintenance of public order. The order was passed by the District Magistrate Nadia, on 11-4-73. The ground on which the order was founded is as follows :-

1. "That on 16-2-73 in between 10.08 hours and 10.14 hours you along with your other associates being armed with gun and other weapons committed a dacoity in a 3rd class compartment of running train S. 110 Dn. between Habibpur R. S. and Lakinarayanpur junction R.S. in Ranaghat Shantipur section and snatched away cash of Rs. 30,0,00/- from Shri Ashutosh Pal of Calcutta causing bullet injuries to him and putting all passengers to fear of death. Your action caused confusion, panic and disturbed public order there. You have thus acted in a manner prejudicial to the maintenance of public order."

The order was served upon the detenu who made a representation; which was considered by the Government and rejected. We have been taken through the time schedule of various orders passed by the different authorities and we do not find any illegality in that behalf. As a matter of fact, the learned advocate, Mr. Narayana Rao, appearing as amicus curiae for the petitioner, has not raised any ground of illegality in that connection.

Since, however, the District Magistrate in his affidavit (Paragraph 6) has stated that he based his subjective satisfaction only on the ground mentioned in the detention order although other materials were placed before him, we examined the records of the case history of the detenu.

After a careful examination of the record and the history sheet, we find that the District Magistrate, having regard to the grave nature of the act committed by the detenu, was bona fide satisfied that the said act was sufficient for making, the detention order. Mr. Narayana Rao, however, submits that unless the facts stated in the ground are proved to the satisfaction of this Court, no action can be taken under the Act. We are unable, to accede to this submission. It is because that the act complained of cannot perhaps be satisfactorily proved in a court of law or that the witnesses are unwilling to come forward being already terrified by the enormity of the act perpetrated that action sometimes has to be taken under the Act to prevent further commission of offenses of similar nature. Besides, it is not the function of the Court to examine the truth or otherwise of the allegations mentioned in the grounds. The grounds are assumed 'by the Court to be true and it is well settled that the scope of inquiry in a case of this nature is very limited.

59

The learned counsel next contends that this is at the worst a matter affecting law and order but not public order. We are unable to accept this submission. When an armed robbery or dacoity like this is alleged to be committed by the petitioner armed with guns with his associates similarly armed, in a running train, it no longer remains a matter of simple law and order as the peaceful tempo in life of the community at large is also affected thereby. It not only puts the passengers from various places and walks of life in the particular third class compartment in fear but the passengers of the entire train and even of other running trains in panic. Public order and life of the community is hereby clearly disturbed. That amounts to public disorder which has to be prevented by action under the Act. Besides, the news of this type of daring dacoity in a running train is even likely to prevent the traveling public from availing of communication by train. Such consequences and effects are bound to affect public order which is the opposite of public disorder. If any authority is needed we have one in A.I.R. 1972 S.C. p. 2146 (Subal Chandra Ghosh v. State of West Bengal) wherein one of us (Jaganmohan Reddy, J.) observed as follows

"The facts set out in ground No. 1 clearly show that the offence alleged against him (detenu) is committed in a daring manner in the presence of passengers which must be very panicky and disturbed the public order."

Again in Arun Ghosh v. State of West Bengal(1) this Court dealing with the question of public order observed as follows

"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 society. The test is : Does it lead to a disturbance of the even tempo and current of life of the community so as to amount to a disturbance of the public order, or, does it affect merely an individual without affecting the tranquility of society."

In yet another decision of this Court in Ram Manohar Lohia's case 2) Hidayatullah J. as he then was, speaking for the majority, put in a picturesque language the whole concept of public order thus

"It will thus appear that just 'as "public order" in the rulings of this Court was said to comprehend disorders of less gravity than those affecting "security of State", "law and order" also comprehends disorders of less gravity than those affecting "public order". One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that- an act may affect public order but not security of the State."

(1) [1970] 3 S. C. R. 288.

(2) [1966] 1 S. C. R. 709.

60

We are clearly of the view that the ground on which the detention order has been made in this case would reasonably give rise to a bonafide satisfaction in the mind of the detaining authority that such incidents were likely to be repeated in the same manner and that those who are alleged to have taken part in even a single incident of this magnitude had to be detained in order that the tempo of peace in public life was not jeopardised. We have, therefore, no hesitation in holding that there is no infirmity in the impugned order. The petition fails and is dismissed. The rule is discharged.

Petition dismissed.

V.P.S.

61