

Prabhakar B. Poojari vs State Of Karnataka on 18 July, 1988

Equivalent citations: JT1988(3)SC117, 1990SUPP(1)SCC146, AIRONLINE 1988 SC 62, 1990 SCC (SUPP) 146, (1988) 3 JT 117, 1990 SCC (CRI) 639, (1988) 3 JT 117 (SC), AIRONLINE 1988 SC 131

Author: A.P. Sen

Bench: A.P. Sen, B.C. Ray

ORDER

A.P. Sen, J.

1. In this petition under Article 32 of the Constitution, Shri L.K. Gupta, appearing as amicus curiae for the petitioner confines his submission to the question whether the undue, unexplained delay in making the impugned order of detention must give rise to an inference that there was no sufficient material for the subjective satisfaction of the detaining authority or that the satisfaction so reached was not genuine. The matter is no longer res integra and is covered by a direct decision of this Court. Quite recently, this Court in *Rajendrakumar Natvarlal Shah v. State of Gujarat and Ors.* held that mere delay in passing an order of detention does not necessarily give rise to such an inference, nor would it be a vitiating factor. Although the Court was concerned with the detention of a person under Section 3(2) of the Gujarat Prevention of Anti-Social Activities Act, 1985, the question involved was one of principle. The Court dealt with the question in depth and specifically referred to orders of detention passed under Section 3(l) of the Conservation of Foreign Exchange & Prevention of Smuggling Activities Act, 1974 where such delay in making an order of detention is inevitable. It was observed : See at p.414, para.10-Ed.

It has been laid down by this Court in a series of decisions that the rule as to unexplained delay in taking action is not inflexible. Quite obviously, in cases of mere delay in making of an order of detention under a law like the Conservation of Foreign Exchange & Prevention of Smuggling Activities Act, 1974 enacted for the purpose of dealing effectively with persons engaged in smuggling and foreign exchange racketeering who, owing to their large resources and influence have been posing a serious threat to the economy and thereby to the security of the nation, the Courts should not merely on account of delay in making of an order of detention assume that such delay, if not satisfactorily explained, must necessarily give rise to an inference that there was no sufficient material for the subjective satisfaction of the detaining authority or that such subjective satisfaction was not genuinely reached.

The writ petition must accordingly fail and is dismissed.