

Kabir Chawla vs State Of U.P on 12 May, 1993

Equivalent citations: 1994 SCC, SUPL. (1) 274, AIRONLINE 1993 SC 363, 1994 SCC (CRI) 577 1994 SCC (SUPP) 1 274, 1994 SCC (SUPP) 1 274

Author: S.C. Agrawal

Bench: S.C. Agrawal, B.P. Jeevan Reddy

PETITIONER:

KABIR CHAWLA

Vs.

RESPONDENT:

STATE OF U.P

DATE OF JUDGMENT 12/05/1993

BENCH:

AGRAWAL, S.C. (J)

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AGRAWAL, S.C. (J)

JEEVAN REDDY, B.P. (J)

CITATION:

1994 SCC Supl. (1) 274

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. We have heard the petitioner who has appeared in person on the writ petition filed by him.
2. The petitioner has made a grievance in relation to the proceedings that have been initiated against him by the District Magistrate, Nainital, by the show-cause notice dated March 10, 1993 under Section 3(1) of the U.P. Control of Goondas Act, 1970. The petitioner states that he has submitted his reply to the show-cause notice but no final order has been made so far and that he has to appear before the District Magistrate. The petitioner, however, prays that the said proceedings may be

quashed. We do not find any ground for quashing the said proceedings at this stage. The matter is under consideration before the District Magistrate. It is open to the petitioner to satisfy the District Magistrate that no ground has been made out for passing the order against him. In the writ petition the petitioner has not made out a case that in issuing the show- cause notice the District Magistrate was actuated by mala fides. There is, therefore, no reason to assume that the District Magistrate would not give a fair consideration to the matter. We are, therefore, unable to accept the submissions of the petitioner in this regard.

3. Another grievance that has been made by the petitioner is that he was preventively detained on the basis of an order passed by the District Magistrate, Nainital on February 9, 1993 under the National Security Act and that the said order of detention was not confirmed by the State Government by order dated February 18, 1993 but in spite of the said order of the State Government the petitioner was not released immediately and was kept in detention till February 22, 1993. Shri A.S. Pundir, the learned counsel appearing for the State Government as well as the District Magistrate has submitted that the wireless message with regard to the order of the State Government not confirming the order of detention was received by the District Magistrate on February 19, 1993 and that the District Magistrate after making confirmation about the said message passed the order for release of the petitioner in the evening of February 21, 1993 and the petitioner was released by the jail authorities in the morning of the next day i.e. February 22, 1993. Shri Pundir also placed the relevant file and has pointed out that the District Magistrate had passed the order for the release of the petitioner on February 21, 1993, even though the formal communication of the order passed by the State Government was received subsequently on February 23, 1993. It does appear that there has been laxity on the part of the District Magistrate to take immediate action for release of the petitioner after the State Government had refused to confirm the order of detention that has been passed by the District Magistrate. Since the matter related to the right of personal liberty it was necessary that after having received the message that the State Government had refused to confirm the order of detention of the petitioner, the District Magistrate should have taken immediate steps to seek confirmation of the said message if she had any doubt about its authenticity and should have passed the necessary order for the release of the petitioner forthwith. If this had been done, the petitioner could have been released on February 19, 1993 itself. On account of the failure on the part of the District Magistrate to act promptly the petitioner had to remain in jail up to February 22, 1993. The petitioner claims that he should be awarded compensation for wrongful detention for this period. We do not propose to go into this question in these proceedings. Without expressing any opinion on the merits of this claim, we leave the petitioner to take recourse to the appropriate remedy available to him in law for redress of this grievance. We, however, hope and trust that in future the authorities will be more vigilant in safeguarding the liberty of the citizens and ensure that no person suffers deprivation of his right to personal liberty on account of any inaction or delay on their part in taking the necessary action.

4. The petitioner has also made a grievance about the partisan attitude of the police authorities in Nainital District and more particularly Respondent 4 who is posted as Senior Superintendent of Police at Nainital. We have perused the documents that have been filed by the petitioner with the writ petition. In our view, the said grievance of the petitioner is not borne out by these documents.

5. For the reasons aforementioned, we do not find any merit in the writ petition and it is, therefore, dismissed.