

Supreme Court of India

Dhena Hembram vs The District Magistrate, West ... on 9 April, 1975

Equivalent citations: AIR 1975 SC 1804, 1975 CriLJ 1549, (1975) 4 SCC 867

Author: S M Ali

Bench: N Untwalia, S M Ali

JUDGMENT S. Murtaza Fazl Ali, J.

1. An order of detention was passed against the detenu by the District Magistrate, West Dinajpur on 4th May, 1974 under Sub-section (1) read with Sub-section (2) of Section 3 of the Maintenance of Internal Security Act, 1971. In pursuance of this order the detenu was arrested on May 8, 1974. On June 6, 1974 the case of the detenu was referred to the Advisory Board which reported on 6th July, 1974 that there were sufficient grounds for detaining the petitioner. The petitioner also made a representation which was received by the Government on June 25, 1974 and it was rejected by the State Government on July 2, 1974.

2. It is conceded by learned Counsel appearing as amicus curiae for the petitioner that all the formalities required under the provisions of the Maintenance of Internal Security Act have been duly complied with. The grounds served on the petitioner are as follows:

1. That on the night of 21/22-1-74 at about 01 hrs. you along with your associates Chandu Murmu, Nazrul Islam alias Bisan and others being armed with fire-arms and other deadly weapons while proceeding to commit dacoity elsewhere were detected at village Bhitar Masum, P.S. Banshihar, District West Dinajpur by one Jolok Debsharma s/o Shahat Debsharma of that village who along with his brother Pashendra Debsharma was going to the village Chowghora under Banshihari P.S. for fetching medicine for their cattle with a burning hurricane lantern in his hand. Being challenged by Shri Jolok Debsharma, you fired one round causing his instantaneous death. On hearing the sound of gun fire, the R.G. members on duty and other villagers rushed to the spot when you and your associates fired another three rounds at a time causing gunshot injuries on the person of other four men. When a gun licensee living nearby fired one round, you and your associates fired several rounds indiscriminately to terrorise the villagers. This daring incident created a wide-spread panic in the minds of the law-abiding citizens and a sense of insecurity, fear and fright prevailed in the area for a considerable period disrupting the even tempo of lives of the local people. Some of the witnesses could recognise you and some of your associates but they dared not open their lips against you and some of your associates out of fear of further trouble. Thus you disrupted the public order in Banshihari P.S. area.

2. That on the night of 2-3-74 at about 2.30 hrs. you along with your associates Chandu Murmu, Nazrul Islam alias Bisan and many others being armed with fire-arms, spears, Hasuas, bows and arrows etc. raided the house of Pajiruddin Mia s/o Jobaruddin Mia of Narayanpur, P.S. Banshihari, District West Dinajpur as well as five neighbouring houses belonging to Giasuddin Ahmmed, Dhan Mohd. Hayat Mohd. Dasiruddin Mia and Tosadakshya Hossen of the same hamlet and looted away cash, rice, utensils and other household properties valued Rs. 2,000-00. During the commission of the crime, you fired one round to terrorise the R.G. members and other villagers who had approached to resist the crime on hearing hue and cry raised by the inmates of the victims of the

houses. As a result of this firing one of the R.G. members sustained gunshot injuries on his person. This incident also created a wide-spread panic in the minds of the law abiding citizens and a sense of insecurity, fear and fright prevailed in the area for a considerable period disrupting the normal flow of avocation of the people of the locality. Some of the witnesses could recognise you and your associates but out of fear of further trouble they dared not speak against you. Thus you disturbed the public order.

3. The grounds are absolutely clear and specific and learned Counsel has also conceded that the grounds are relevant and do not suffer from any ambiguity. The detenu is alleged to have committed two dacoities, one after the other within a period of two months. In the course of both the occurrences he is said to have used fire arms and threatened witnesses and therefore nobody is available to depose against him. This has undoubtedly disturbed public order.

4. We find no merits in this petition which is accordingly dismissed and the rule discharged.