

Supreme Court of India

Gandhi Sardar vs Union Of India (Uoi) And Ors. on 9 January, 1975

Equivalent citations: AIR 1975 SC 755, 1975 CriLJ 633, (1975) 4 SCC 142, 1975 (7) UJ 164 SC

Author: P Bhagwati

Bench: K Mathew, P Bhagwati

JUDGMENT P.N. Bhagwati, J.

1. The petitioner challenges an order of detention made by the District Magistrate, 24-Parganas under Sub-section (1) read with Sub-section (2) of Section 3 of the Maintenance of Internal Security Act, 1971 The order of detention was made on 29th December, 1973 on the ground that it was necessary to detain the petitioner with a view to preventing him from acting in any manner prejudicial to the maintenance of public order. The grounds on which the order of detention was based referred only to one incident and that was described in the following terms :

On the night of 25/26-6-73 at about 00.01 hrs. you along with; your associates being armed with lethal weapons including fire arms raided the house of Ananta Kayal of Naltala under Diamond Mar-hour P. S. and looted away cash, ornaments, etc. At the time of operation you fired from your fire arms indiscriminately disregarding human lives and their safety. As a result the house owner Ananta Kayal and his close neighbour Ajit Kayal sustained serious gun shot injuries on their persons. Subsequently both of them expired in Diamond Marbour Hospital. You also brutally assaulted some of the inmates of the house of occurrence. Your action created such panic in the locality and the local people felt a sense of insecurity. Thus you acted in a manner prejudicial to the maintenance of public order The petitioner contended that this was a solitary incident which could not possibly sustain the inference, that the petitioner was acting in a manner prejudicial to the maintenance of public order and with a view to preventing him from so acting it was necessary to detain him and the satisfaction of the District Magistrate in this behalf was, therefore, not real and genuine and could not support the making of the order of detention. This contention is, however, without force. It stands concluded by a recent decision of this Court in Gora v. State of West Bengal W.P. No. 79 of 1974, decided on Dec. 11, 1974. It appears from the facts of that case that the same incident which was relied upon in the present case for the purpose of making the order of detention also formed the basis of the making of the order of detention in that case. The petitioner in the present case and Gora who was the detenu in that case were associates who participated together in this incident. Gora challenged the validity of the order of detention made against him on the basis of this incident on the self same ground on which the validity of the order of detention is assailed in the present case and that ground was negated by this Court. Having regard to that decision, we must reject the challenge in the present case as well and sustain the order of detention.

2. The petition, therefore, fails and the rule is discharged.