

Supreme Court of India

Kamlabai (Smt) vs Commissioner Of Police, Nagpur ... on 30 April, 1993

Equivalent citations: 1994 (1) BLJR 162, 1993 (2) Crimes 307 SC, JT 1993 (3) SC 666, 1993 (2) SCALE 725, (1993) 3 SCC 384

Author: K J Reddy

Bench: K J Reddy, N Singh

JUDGMENT K. Jayachandra Reddy, J.

1. Leave granted.

2. This appeal is filed by one Smt. Kamlabai wife of detenu Harichand Dhawade who was detained under Section 3(2) of the National Security Act by an order dated 1.5.92. The detenu made a representation on 11.5.92. to the Advisory Board and requested the jail authorities to send the copies to the State Government and the Central Government. The Advisory Board rejected the representation and it reported that there was sufficient cause for detention. The State Government confirmed the order of detention for a period of one year on 17.6.92. A writ petition filed by the appellant was dismissed by the High Court, Hence the present appeal.

3. Two grounds are urged in this appeal. The first ground is that out of four grounds, the High Court rejected the first three grounds and upheld the detention only on the fourth ground which, according to the learned Counsel, can not be deemed to be potential as to disrupt the public order. So far as the fourth ground is concerned it is mentioned therein that on 1.2.92 at about 9.45 hours when the Police Sub Inspector was patrolling, he saw people gathered near detenu's stable, and on seeing him they tried to run away. The S.I. caught hold of one of them who admitted that he was selling illicit liquor in the detenu's stable and thereafter the S.I. took search of the stable and found liquor bottles. When the S.I. was about to take the arrested person and the liquor bottles, the detenu and his associates came there, questioned the S.I. and forcefully broke the liquor bottles on the spot. When the S.I. told them that he was performing his duty, the detenu threatened him that they will finish him if he does not act according to their wishes. So saying the detenu caught hold of the S.I. and surrounded him. The S.I., however, got released and went to the police station. This act and conduct of the detenu was considered to be nothing but display of goondaism, by the detaining authority. We can not say that this is a stray act affecting law and order. Catching hold of a Sub Inspector and threatening him in a public place like that naturally would have created panic in the locality. We can not say that the ground has no nexus to the public order. The other ground urged is that there was delay in the Central Government considering the representation. In the counter-affidavit filed in the court below, it is stated that the representation was dated 11.5.92 and it was received in the Department on 14.5.92 and later it was sent to the Home Minister and reply was given to the detenu on 26.5.92. So far as the State Government is concerned there is no delay. Now coming to the consideration by the Central Government it is stated in the affidavit that the Government of India sent a wireless message on 19.5.92 asking certain information and the information was sent on 21.5.92 and again a wireless message was given on 13.7.92 and on 15.7.92 the matter was concluded by the Government of India. The submission is that from 18.6.92 to 13.7.92 no explanation has been given regarding the delay.

4. The delay by itself is not a ground which proves to be fatal, if there is an explanation. However, the short delay can not be given undue importance having regard to the administrative actions. We do not think that the delay in this case is so inordinate as to warrant interference.

5. It may also be mentioned that the period of detention has almost come to an end. For all these reasons, the appeal is dismissed.