

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CRL.)NO.128 OF 2005

SURAM CHAND

Petitioner(s)

VERSUS

STATE OF J.&K. & ORS.

Respondent(s)

O R D E R

This writ petition has been filed on behalf of one Farooq Ahmed Dar who has been detained under the provisions of the Jammu & Kashmir Public Safety Act, 1978. The Detention Order was passed on 5.11.2004. The Secretary of the State Legal Aid Committee of Jammu & Kashmir has challenged the Detention Order on the ground that there are no valid grounds to pass the Detention Order against Farooq Ahmed Dar. Counsel for the petitioner pointed out that previously there was a detention order passed against the very same detinue and this Court by the order dated 5.11.2004 quashed the detention order and released him. The Detention Order was quashed on the ground that no material was placed on the record to substantiate the contention that the detinue was given liberty to file a proper representation against the detention order. This Court observed that the grounds of detention were not read nor were explained to the detinue and he was not informed of his right to make

a representation. Of course, in that order, this Court has stated that there was no bar for fresh order of

detention being passed. Counsel for the petitioner submitted that previously also the detention order

was passed against the very same detenu and the main ground for detention was that the detenu e was a

member of the terrorist group which has killed so many innocent civilians and government servants and

these civilians belong to the minority community which has resulted in mass exodus of members of the

minority community and they belong to different parts of the country. A list of series of criminal cases

filed against the detenu is also given in the ground of the detention. In the previous order also the very

same ground was mentioned and almost the very same cases have been given as the grounds of

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detention. It is pertinent to note that this Court passed the order quashing the detention order of

5.11.2004 and on the very same day when the present detention order was passed. If series of criminal

cases have been filed against the detenu the State can very well proceed against him in accordance with

law. It appears that the detention authority has not applied its mind when the order of detention was

passed. Accordingly, we set aside the detention order dated 5.11.2004. The petitioner may be released

forthwith if not required in any other case. The State would be at liberty to take action in the pending

criminal cases.

The writ petition is disposed of accordingly.

.....J.

(K.G. BALAKRISHNAN)

.....J.

(ARUN KUMAR)

NEW DELHI;

OCTOBER 6, 2005

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ITEM NO.2

COURT NO.5

SECTION X

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

WRIT PETITION (CRL.) NO(s). 128 OF 2005

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VERSUS

STATE OF J.&K. & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T.)

(FOR FINAL DISPOSAL)

Date: 06/10/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE ARUN KUMAR

For Petitioner(s)

Prof.Bhim Singh, Adv.

Mr. P.V. Yogeswaran,Adv.

For Respondent(s)

Mr. Anis Suhrawardy,Adv.

Mr.S.Mehdi Imam, Adv.

UPON hearing counsel the Court made the following

O R D E R

Writ petition is disposed of in terms of the signed order.

(G.V.Ramana)

Court Master

(Veera Verma)

Court Master