

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

Petition(s) for Special Leave to Appeal (Civil) No(s).17171/2013

(From the judgment and order dated 02/01/2013 in WPC No.8119/2012 of The HIGH COURT OF DELHI AT NEW DELHI)

SAURABH KUMAR

Petitioner(s)

VERSUS

NATIONAL CAPITAL TERRITORY OF DELHI

Respondent(s)

(With application for permission to appear and argue in person)

Date: 04/07/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. PATNAIK

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Petitioner(s)

In-Person

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Application seeking permission to appear and argue in person is allowed.

We have heard the petitioner who has appeared in person.

The High Court has dismissed the writ petition of the petitioner challenging Section 167(2) proviso (a) of the Criminal Procedure Code, 1972 as unconstitutional as it does not require the Magistrate to state reasons in his order remanding to custody beyond 15 days.

The High Court has held in the impugned order that Section 167(2) proviso (a) of the Code of Criminal Procedure does not require the Magistrate to record reasons while remanding the accused person for further detention and, therefore, reasons are not required to be given by the Magistrate.

The petitioner submitted that the High Court has not considered his challenge in the writ petition to the very provision of Section 167(2) proviso (a). He submitted relying on Maneka Gandhi v. Union of India AIR 1978 SC 597 that the procedure laid down therein is not a reasonable procedure and is violative of Articles 14 and Article 21 of the Constitution of India.

On reading the provisions of Section 167(2) proviso (a) of the Code of Criminal Procedure, we find that the Magistrate can authorise detention of the accused persons beyond a period of 15 days if he is satisfied that "adequate grounds exist for detention for doing so". The Magistrate, therefore, has to be satisfied that adequate grounds exist for authorising detention of the accused person beyond a period of 15 days. In our opinion, sufficient check is provided in the aforesaid provision in the Code to ensure that the liberty of the petitioner is not taken away without adequate grounds. The procedure is, therefore, reasonable and is not violative of Articles 14 and 21

of the Constitution of India.
The Special Leave Petition is dismissed.

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|[KALYANI GUPTA]
|COURT MASTER

| | [SHARDA KAPOOR]
| | COURT MASTER

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