

P L D 1988 Lahore 333

Before Fazal Karim and Munir A. Sheikh, JJ

NOOR HUSSAIN--Appellant

versus

SUPERINTENDENT, DARUL AMAN, MULTAN and 2 other a-- Respondents

Intra-Court Appeal No.11 of 1988, decided on 9th February, 1988,

(a) Constitution of Pakistan (1973)--

Arts. 199(1)(b)(i) & 9- - Detention- -Once the Court is satisfied that a person is being held in custody without lawful authority, the only course open to the Court is to set him at liberty--To hold otherwise would not only be against the spirit underlying Art.199(1)(b)(i) but would also sin against the fundamental rights enshrined in Art.9.

Muhammad Rafiq v. Kuhallitilud U-11 Ajur ititz d., Abdul Baqi Baluch v. Government of Pakistan P L D 1968 S C 313 and Government of West Pakistan v. Begum Agha Abdul Karim Shoris Kashmiri P L D 1969 S C 14 ref.

(b) Criminal Procedure Code (V of 1898)--

Ss.100 & 552--Illegal detention-- Detenue was sent to Darul Aman, on her request, after her release from jail--Again appeared before Magistrate and showed her desire to go with her Phoophizad-- Magistrate did not allow her to go with her Phoophizad but sent her to Darul Aman against her wishes- -Magistrate, held, had no authority to direct her detention in Darul Aman against her wishes --Detenue set at liberty in circumstances.

Muhammad Rafiq v. Muhammad Ghafoor P L D 1972 S C 6 ref.

Syed Zafar Hussain Shah for Appellant,

Tasadduq Hussain Jillani, A.A.-G, for Respondent No.1.