

of **Prem Chand (Paniwala) vs. Union of India & Ors.**,¹ could not have been relied upon.

2] We have heard the learned counsel for the Petitioner and perused the decision in the case of **Prem Chand (Paniwala)** (*supra*), where the witnesses were examined in-camera and reliance was placed upon these statements, expressing the possibility of abuse of the power to the detrimental fundamental freedom of the citizen, it is held that stringent test may be applied, as the fundamental rights are fundamental and personal liberty definitely cannot be put at the mercy of the police.

Ensuring that the principles of natural justice are fairly applied and secret hearings are in gross violation of Article 14, 19 and 21 of the Constitution of India, as expounded in case of **Maneka Gandhi vs. Union of India**², the question of vires of the provision of Section 47 and 50 of the Delhi Police Act, 1978 was kept open.

3] Though we can have no second thought about the proposition that has been propounded in the aforesaid decision, to the effect that the fundamental rights of a citizen cannot be curtailed in an arbitrary

1 (1981) 1 SCC 639

2 (1978) 1 SCC 248

manner, as it is treated as the most sacrosanct, for the purposes of the Constitution, but it is also a trite position of law that in several statutes permitting preventive detention, it is permissible to rely upon the material, which the Detaining Authority has gathered, which may include an in-camera statement, with only safeguard that the copy of the said statement is also given to the detenu, as it is one of the matter which the Detaining Authority has taken into consideration.

To do away with the assumptive arbitrariness of the Police Officer recording such a statement, the procedure that is adhered to and particularly in State of Maharashtra dealing with MPDA, is about verification of this statement by an authority higher in rank than the person who has recorded the same and in this case also we find that the two in-camera statements of witness 'A' and 'B' recorded on 15.01.2024 and 17.01.2024 are verified by the Assistant Commissioner of Police, though recorded by the Police Inspector and he has expressed his satisfaction over the incident having taking place, after making necessary inquiry with the nearby residents and shop-owners.

The in-camera statement came to be recorded, because the witnesses were not ready to come openly and get their statements recorded, and, therefore, by concealing the identity, their statements were recorded with an assurance that they shall not be called to give evidence in the Court of Law or before any Authority.

4] Since the above ground is the only ground on which the Detention Order dated 29.01.2024 is subjected to challenge, and we find no merit and substance in the same, upholding the order of detention, the Writ Petition is dismissed.

Rule is discharged.

[MANJUSHA DESHPANDE, J]

[BHARATI DANGRE, J]