Court says Constitutional Principles Applied Properly in Extradition of Man to India

In March 2007, The British Columbia Court of Appeal ruled that Malkiat Singh should be extradited to his home country of India for crimes committed in the 1970s. Mr. Singh was convicted of multiple crimes (including murder) and sentenced to life imprisonment in India in 1975. In 1980, he fled to Canada after escaping while on bail. He ended up in the British Columbia Interior and obtained Canadian citizenship in 1985. Mr. Singh married, had two children, operated a successful orchard business, and "by all accounts…led a model life in Canada."[i] Mr. Singh was apprehended in early 2004 at a roadside check. This recent Court of Appeal decision is the result of an application for appeal from earlier decisions made by the British Columbia Supreme Court and an extradition order granted by the Minister of Justice of Canada.

During the Minister of Justice's initial hearing, sworn statements were provided which argued that the original testimony more than 30 years prior had been fabricated, and that Mr. Singh had been wrongly convicted. The Minister however stated that it was not his role to evaluate new evidence arising from a previous trial. The Court of Appeal agreed, and upheld the extradition order against Mr. Singh.

Mr. Singh argued before the Court of Appeal that Canada's Extradition Act as well as its extradition agreement with the government of India was in violation of section 7 of the Charter of Rights and Freedoms. The Court of Appeal disagreed, referring to two key 2006 rulings from the Supreme Court of Canada (United States of America v. Ferras; United States of America v. Latty and United Mexican States v. Ortega; United States of America v. Fiessel). Here the Court held that the Extradition Act did not violate the guarantees to life, liberty, and security of the person enshrined under s. 7 of the Charter (see Featured Court Ruling).

These decisions also formed more stringent rules with respect to handing individuals over to other countries on extradition matters. The Supreme Court held that the protection of liberty found in the Charter was not violated because the Extradition Act is consistent with the need for fair process as required by the principles of fundamental justice. Namely, at a hearing, in order for evidence to be admissible (thus achieving a fair trial) it must meet a certain standard of reliability. The Act also requires that a hearing judge must determine the sufficiency of that evidence when arriving at a decision to demand or refuse an order for extradition.

Mr. Singh will remain in custody while he awaits extradition to India.

Sources

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- Republic of India v. Singh 2007 BCCA 157.
- United Mexican States v. Ortega; United States of America v. Fiessel, [2006] 2 S.C.R. 120, 2006 SCC 34.
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Further Reading

- CBC News Online, "Extradition: The longest arm of the law" CBC.ca (27 February 2006).
- N. S. Garewal, "Indian murder convict held in Canada after 30 years" Tribune News Service (22 January 2004).

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[i] Republic of India v. Singh 2007 BCCA 157 at para. 4.