

(1999) 09 MAD CK 0056
In the Madras High Court
Case No : H.C.P. No. 358 of 1999

A. Thambusamy

APPELLANT

Vs

The District Collector and District Magistrate, Cuddalore
District, Cuddalore and another

RESPONDENT

Date of Decision : 21-09-1999

Acts Referred:

Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act, 1982 — Section 3, 4(1) (A)

Citation : (1999) 3 CTC 628

Hon'ble Judges : S. Jagadeesan, J;A. Raman, J

Bench : Division Bench

Advocate : Mr. N. Doraisamy, for the Appellant; Mr. S. Anbalagan, Additional Public Prosecutor, for the Respondent

Judgement

Judgement pronounced by A. Raman, J.—The order of detention was passed by the District Collector and District Magistrate, Cuddalore,

whereby branding Thiru. Ravi as a bootlegger, Re passed the order of detention under Section 3 of the Act, 14 of 1982. Challenging the same, his

uncle has filed this habeas corpus Petition; The detenu was concerned in four cases, all arising under the T.N.P. Act during the year 1998. While

so, another case in Crime No. 392 of 1998 u/s 4(1)(A) of T.N.P. Act on the basis of occurrence dated 30.12.1998 came to be registered against

the detenu. In the above circumstances, the detaining authority, the District Collector and District Magistrate, Cuddalore, felt satisfied that the

detenu was indulging in prejudicial activities and therefore, passed the order of detention. Learned counsel for the petitioner submits that in the

Tamil translation of the ground furnished to him, there is no reference to the

effect that the representation if any made by the detenu would be placed before the Advisory Board for its consideration, whereas in the grounds of detention in English, it is so mentioned in paragraph 6 of the order of detention. Therefore, relying upon a decision of this Court reported in *Devarajan v. State etc. & another*, 1999 (I) L.W. (Cri.) 339, the learned counsel for the petitioner contended that the fact of representation made by the detenu to Government will also be placed before the Advisory Board is significantly absent in the Tamil version and thus the detenu was not intimated that his representation sent to the Government would be placed before the Advisory Board and this omission is fatal to the order of detention and it vitiates the order of detention. It was further held by the Bench that once it is held that the State is under obligation to inform the detenu that his representation will be placed before the Advisory Board, the further question that would arise is, whether the non-furnishing of the correct Tamil version of the detention order would be fatal. Here, admittedly in the Tamil version supplied to the detenu, the relevant portion that his representation would also be placed before the Advisory Board for consideration is conspicuously absent. Since the State is under the obligation to inform the detenu of the same and as there is an omission in Tamil translation to intimate the detenu, the impugned order of detention is liable to be set aside. Therefore, this omission in the Tamil translation would render the very order of detention invalid and consequently we are of the view that this Habeas Corpus petition has to be accepted.

2. In the result, the habeas corpus petition is allowed, setting aside the order of detention passed by the first respondent on 13.1.1999. The detenu is ordered to be set at liberty forthwith unless his detention is required in connection with any other case.