
(2000) 04 MAD CK 0014
In the Madras High Court
Case No : H.C.P. No. 1298 of 1998

Alagar	Vs	APPELLANT
The State of Tamil Nadu		RESPONDENT

Date of Decision : 28-04-2000

Acts Referred:

Citation : (2000) 2 LW(Cri) 684

Hon'ble Judges : V. Bakthavatsalu, J;N. Dhinakar, J

Bench : Division Bench

Advocate : V. Parthiban, for the Appellant; S. Anbalagan, Additional Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

N. Dhinakar, J.—The petitioner is the detenu and he stands detained by the order of detention dated 26/6/1998 passed by the second

respondent under Act 14 of 1982 after he was identified as a ""Goonda"", since he had come to the adverse notice of the detaining authority in 12

crime registered against him and that on 27/4/98 he acted in a manner prejudicial to the maintenance of public order.

2. In the grounds of detention, it is stated that on 27/4/98 at about 9.15 p.m. the detenu way laid Mariappan, a egg-vendor by profession and

threatened him to pay money. The said Mariappan threw the cycle down and ran with the cash bag in his hand. Some of the head load workers

attempted to intervene and save Mariappan. But the detenu took an aruval and threatened the pedestrians as well as the shop-keepers. From the

tea stall, he pushed down a can containing hot milk. The ladies and children who had come to the temple, which was nearby, to offer their prayers

ran helter-skelter. The shop keepers apprehending danger to their lives and properties closed their shops. The vehicular traffic came to standstill

and even tempo of life was affected at the place.

3. The detaining authority on the materials placed before him came to the conclusion that the detenu has to be detained, since his activities were prejudicial to the maintenance of public order.

4. Learned counsel for the petitioner assails the order of detention on the ground that the sponsoring authority has sworn to an affidavit dated

15/6/98 and forwarded the same to the detaining authority with the materials for the detaining authority to satisfy" whether the order of detention

has to be passed against the detenu under Tamil Nadu Act 14 of 1982 Learned counsel submits that if the affidavit is dated 15/6/98, then the

material i.e., order extending the remand dated 24/6/98 could not have been forwarded to the detaining authority and that the sponsoring authority

could have forwarded only such of those documents which came into existence later to 15/6/98 and in support of his plea, he drew our attention to

the paper book. At page 130, it is seen that the order extending the remand is dated 24/6/98. We are unable to understand as to how the

sponsoring authority who forwarded the materials on 15/6/98 with his affidavit was able to forward the document dated 24/6/98 prior to its

coming into existence. Learned Additional Public Prosecutor submits that the said document was forwarded by the sponsoring authority to the

detaining authority prior to the date of order of detention. In support of his plea, he drew our attention to an endorsement of the file, in which it is

found noted that the sponsoring authority appeared before the detaining authority on 26/6/98 and hence on that day the sponsoring authority could

have possibly produced this document before the detaining authority. But unfortunately the said endorsement in the file does not contain that the

sponsoring authority produced the said document on 26.6.98 and it is silent as to when the document was produced before the detaining authority.

If the document was subsequently produced before the detaining authority by the sponsoring authority. It is but natural for the sponsoring authority

to have produced it with a covering letter or by filling an additional affidavit. There is no such document produced before us to hold that the

document dated 24/6/98 was produced before the detaining authority on

26/6/98. The date on which the order of detention was passed. We are of the view that on that ground, the order of detention has to be set aside and accordingly, it is set aside.

5. In the result the writ petition is allowed. The order of detention is set aside. The detenu is directed to be released forthwith, unless he is wanted in connection with any other case.